

# CITY OF INDUSTRY

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CITY COUNCIL  
REGULAR MEETING  
AGENDA

MARCH 10, 2022  
9:00 AM



Mayor Cory C. Moss  
Mayor Pro Tem Cathy Marcucci  
Council Member Michael Greubel  
Council Member Mark D. Radecki  
Council Member Newell Ruggles

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Location: City Council Chamber, 15651 Mayor Dave Way, City of Industry, California 91744

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*Addressing the City Council:*

**NOTICE OF TELEPHONIC MEETING:**

- **Pursuant to AB 361 (Government Code Section 54953(e)), this meeting will be held in person and telephonically. Members of the public can attend the hybrid meeting and offer public comments either in person or telephonically, by calling the following conference call number: 657-204-3264, then entering the following Conference ID: 871 701 797#. Pursuant to the Governor's Executive Order, and in compliance with the Americans with Disabilities Act, if you need special assistance to participate in the City Council meeting (including assisted listening devices), please contact the City Clerk's Office at (626) 333-2211 by 5:00 p.m. on Tuesday, March 8, 2022, to ensure that reasonable arrangements can be made to provide accessibility to the meeting.**

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- **Agenda Items:** Members of the public may address the City Council on any matter listed on the Agenda. In order to conduct a timely meeting, there will be a three-minute time limit per person for any matter listed on the Agenda.
  - **Public Comments (Non-Agenda Items Only):** Anyone wishing to address the City Council on an item not on the Agenda may do so during the "Public Comments" period. In order to conduct a timely meeting, there will be a three-minute time limit per person for the Public Comments portion of the Agenda. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda.

**Agendas and other writings:**

In compliance with Government Code Section 54957.5(b), staff reports and other public records permissible for disclosure related to open session agenda items are available at City Hall, 15625 Mayor Dave Way, City of Industry, California, at the office of the City Clerk of the City Council during regular business hours, Monday through Thursday, 8:00 a.m. to 5:00 p.m., Fridays 8:00 a.m. to 4:00 pm. City Hall doors are closed between 12:00 p.m. to 1:00 p.m. each day. Any person with a question concerning any agenda item may call the City Clerk's Office at (626) 333-2211.

1. Call to Order
2. Flag Salute
3. Roll Call
4. Public Comments
5. **CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered to be routine and will be enacted by one vote. There will be no separate discussion of these items unless members of the City Council request specific items be removed from the Consent Calendar for separate action.

- 5.1 Consideration of the Register of Demands for March 10, 2022

*RECOMMENDED ACTION: Approve the Register of Demands and authorize the appropriate City Officials to pay the bills.*

- 5.2 Consideration of a Professional Services Agreement with ADVANTEC Consulting Engineers, Inc. to provide an Intelligent Transportation Systems Master Plan, in an amount not-to-exceed \$175,060.00

*RECOMMENDED ACTION: Approve the Agreement.*

- 5.3 Consideration of a Right-of-Way Contract with the San Gabriel Valley Council of Governments for various right of way properties for the State Route 57/60 Confluence Chokepoint Relief Project (MP 99-31 #22C)

*RECOMMENDED ACTION: Approve the Right-Of-Way Contract with San Gabriel Valley Council of Government.*

- 5.4 Consideration of Take Over Agreement with Arch Insurance Company, for Contract No. CIP-FAC-19-049-B, (CITY-1456), Site Plan for Sheriff's Trailer

*RECOMMENDED ACTION: Approve the Agreement.*

- 5.5 Consideration of Amendment No. 1 to the Professional Services Agreement with Tri-Star Industrial Supplies and Services, to render services as the Inspector of Record for the El Encanto Interior Improvements project, extending the term through March 12, 2024, revising the indemnity provisions, updating the rate schedule, increasing compensation by \$10,000.00, and updating the address for the City (CIP-FAC-19-064-B)

*RECOMMENDED ACTION: Approve the Amendment.*

- 5.6 Consideration of Amendment No. 2 to the Professional Services Agreement with Gregg Maedo + Associates, Inc., for architectural services at El Encanto Healthcare and Habilitation Center, extending the term through August 1, 2023, revising the scope of services, revising the rate schedule, and increasing compensation by \$18,595.00

*RECOMMENDED ACTION: Approve the Amendment.*

- 5.7 Consideration of Amendment No. 2 to the Professional Services Agreement with MuniEnvironmental, LLC, for Environmental and Recycling Consulting Services, extending the term through March 21, 2023, revising the scope of services and the rate schedule, and increasing the compensation by \$83,000.00

*RECOMMENDED ACTION: Approve the Amendment.*

- 5.8 Consideration of Amendment No. 1 to the License Agreement with J. De Sigio Construction, Inc. for assess to Assessor's Parcel No. 8262-015-901 located at the corner of Industry Hills Parkway and South Azusa Avenue, for temporary staging of construction materials and equipment

*RECOMMENDED ACTION: Approve the Agreement.*

- 5.9 Ratification of License Agreement with Doty Bros Equipment Co., for access to Assessor's Parcel No. 8262-015-901, located at the corner of Industry Hills Parkway and South Azusa Avenue, for temporary staging of construction materials and equipment

*RECOMMENDED ACTION: Ratify the Agreement.*

- 5.10 Ratification of License Agreement with Group Delta Consultants, Inc. for access to Assessor's Parcel No. 8564-007-901, located at the northwest corner of Valley Boulevard and Temple Avenue, for temporary storage of three 55- gallon drum containers

*RECOMMENDED ACTION: Ratify the Agreement.*

- 5.11 Consideration of Resolution No. CC 2022-10 - A Resolution of the City Council of the City of Industry, California Authorizing the Continuance of Remote Teleconference Meetings Pursuant to AB 361

*RECOMMENDED ACTION: Adopt Resolution No. CC 2022-10, authorizing the continuance of remote teleconferencing meetings pursuant to AB 361.*



11. Adjournment. The next regular City Council Meeting is Thursday, March 24, 2022, at 9:00 a.m.

*CITY COUNCIL*

ITEM NO. 5.1

**CITY OF INDUSTRY  
AUTHORIZATION FOR PAYMENT OF BILLS  
CITY COUNCIL MEETING OF MARCH 10, 2022**

**FUND RECAP:**

<u>FUND</u>	<u>DESCRIPTION</u>	<u>DISBURSEMENTS</u>
100	GENERAL FUND	4,307,616.38
103	PROP A FUND	23,816.24
107	MEASURE W FUND	3,022.50
120	CAPITAL IMPROVEMENTS	1,266,361.12
TOTAL ALL FUNDS		5,600,816.24

**BANK RECAP:**

<u>BANK</u>	<u>NAME</u>	<u>DISBURSEMENTS</u>
BOFA	BOFA - CKING ACCOUNT	2,337,544.78
PROP/A	PROP A - CKING ACCOUNT	23,816.24
MEAS/W	MEASURE W - CKING ACCOUNT	3,022.50
WFBK	WELLS FARGO - CKING ACCOUNT	3,236,432.72
TOTAL ALL BANKS		5,600,816.24

**APPROVED PER CITY MANAGER**

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**CITY OF INDUSTRY  
BANK OF AMERICA  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITYGEN.CHK - City General</b>				
WT1252	02/16/2022		JOHN HANCOCK USA	\$4,276.40
	Invoice	Date	Description	Amount
	1/22-2/4/22	02/16/2022	PARS CONTRIBUTIONS FOR 1/22-2/4/22	\$4,276.40
WT1253	02/16/2022		MIDAMERICA ADMINISTRATIVE &	\$23,268.38
	Invoice	Date	Description	Amount
	MAR/APR2022	02/16/2022	RETIREE HEALTH PREMIUM REIMBURSEMENTS	\$23,268.38
24528	02/09/2022		CITY OF INDUSTRY	\$1,000,000.00
	Invoice	Date	Description	Amount
	2/9/22	02/09/2022	TRANSFER FUNDS-CITY REISTER 2/10/22	\$1,000,000.00
24529	02/09/2022		CIVIC RECREATIONAL INDUSTRIAL	\$210,000.00
	Invoice	Date	Description	Amount
	2/9/22	02/09/2022	TRANSFER FUNDS-CRIA REGISTER 2/9/22	\$210,000.00
24530	02/23/2022		VOIDED- SPOILED CK	\$0.00
24531	02/23/2022		CITY OF INDUSTRY	\$1,100,000.00
	Invoice	Date	Description	Amount
	2/23/2022	02/23/2022	TRANSFER FUNDS-CITY REGISTER 2/24/22	\$1,100,000.00

Checks	Status	Count	Transaction Amount
	Total	6	\$2,337,544.78



CITY OF INDUSTRY

PROP A

March 10, 2022

Check	Date		Payee Name	Check Amount
<b>PROPA.CHK - Prop A Checking</b>				
90371	02/23/2022		WALNUT VALLEY WATER DISTRICT	\$570.01
	Invoice	Date	Description	Amount
	4243001	02/08/2022	01/01-01/31/22 SVC - IRR METROLINK STA-SPANISH	\$570.01
90372	03/02/2022		SOUTHERN CALIFORNIA EDISON	\$176.48
	Invoice	Date	Description	Amount
	2022-00001513	02/22/2022	01/21-02/21/22 SVC - 600 S BREA CYN B	\$176.48
90373	03/10/2022		CNC ENGINEERING	\$18,223.75
	Invoice	Date	Description	Amount
	504817	02/24/2022	ANNUAL BUS STOP ADA IMPROVEMENTS	\$9,606.25
	504818	02/24/2022	METROLINK STATION COMMUTER RAIL STATION	\$1,335.00
	504819	02/24/2022	FULLERTON RD GRADE SEPARATION	\$1,667.50
	504820	02/24/2022	FULLERTON RD GRADE SEPARATION	\$4,215.00
	504821	02/24/2022	FAIRWAY DR GRADE SEPARATION	\$1,400.00
90374	03/10/2022		INDUSTRY SECURITY SERVICES	\$4,745.60
	Invoice	Date	Description	Amount
	14-26105	02/18/2022	SECURITY SVC-METROLINK	\$2,372.80
	14-26079	02/11/2022	SECURITY SVC-METROLINK	\$2,372.80
90375	03/10/2022		SO CAL INDUSTRIES	\$100.40
	Invoice	Date	Description	Amount
	551107	02/22/2022	RR RENTAL-METROLINK	\$100.40

CITY OF INDUSTRY

PROP A

March 10, 2022

Check	Date	Payee Name	Check Amount
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PROPA.CHK - Prop A Checking

Check	Status	Count	Transaction Amount
	Total	5	\$23,816.24

CITY OF INDUSTRY

MEASURE W

March 10, 2022

Check	Date	Payee Name	Check Amount
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MEASUREW.WF.CHK - Measure W Wells Fargo Checking

Check	Date	Description	Amount
300002	03/10/2022	CNC ENGINEERING	\$3,022.50
	Invoice		
	504810	2021 CLEANOUT OF STORMATER DEVICES	\$3,022.50

Check	Status	Count	Transaction Amount
	Total	1	\$3,022.50

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
77710	02/18/2022		PURCHASE POWER	\$229.99
	Invoice	Date	Description	Amount
	2/6/2022	02/06/2022	POSTAGE METER REFILL ON 2/3/22	\$229.99
77711	02/18/2022		QUADIENT FINANCE USA, INC.	\$500.00
	Invoice	Date	Description	Amount
	02/03/2022	02/03/2022	POSTAGE REFILL-FINANCE DEPT	\$500.00
77712	02/18/2022		SPECTRUM - TIME WATER CABLE	\$938.99
	Invoice	Date	Description	Amount
	0362894021022	02/10/2022	BUSINESS INTERNET-FEB 2022	\$938.99
77713	02/23/2022		SYNCHRONY BANK/AMAZON	\$496.39
	Invoice	Date	Description	Amount
	S2SQC230	02/10/2022	COMPUTER SUPPLIES	\$496.39
77714	02/23/2022		AT & T	\$300.44
	Invoice	Date	Description	Amount
	3135237491	02/01/2022	02/01-02/28/22 SVC - METROLINK T1 CIRCUIT	\$300.44
77715	02/23/2022		FRONTIER	\$430.93
	Invoice	Date	Description	Amount
	2022-00001466	02/16/2022	02/16-03/15/22 SVC - PH AUTO PLAZA	\$183.64
	2022-00001468	02/10/2022	02/10-03/09/22 SVC - 600 BREA CYN RD	\$247.29
77716	02/23/2022		SAN GABRIEL VALLEY WATER CO.	\$481.58

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	Invoice	Date	Description	Amount
	2022-00001467	02/14/2022	01/11-02/11/22 SVC - 336 EL ENCANTO	\$100.44
	2022-00001477	02/11/2022	01/10-02/10/22 SVC - 14329 VALLEY	\$381.14
<b>77717</b>	02/23/2022		<b>SOUTHERN CALIFORNIA EDISON</b>	<b>\$10,772.12</b>
	Invoice	Date	Description	Amount
	2022-00001454	02/18/2022	01/21-02/17/22 SVC - 14661 & 14911 CLARK AVE U	\$78.67
	2022-00001455	02/15/2022	01/18-02/14/22 SVC - 17635 GALE AVE	\$1,519.22
	2022-00001456	02/15/2022	01/18-02/14/22 SVC - 1023 U FAIRWAY DR	\$117.42
	2022-00001457	02/19/2022	01/18-02/14/22 SVC - 19001 TONNER CYN RD	\$17.43
	2022-00001458	02/16/2022	01/19-02/15/22 SVC - 900 NOGALES U	\$54.18
	2022-00001460	02/15/2022	01/18-02/14/22 SVC - VARIOUS SITES	\$7,057.55
	2022-00001461	02/15/2022	01/12-02/14/22 SVC - VARIOUS SITES	\$1,605.45
	2022-00001462	02/15/2022	01/18-02/14/22 SVC - 1341 FULLERTON RD	\$112.54
	2022-00001463	02/15/2022	01/18-02/14/22 SVC - 15718 RAUSCH RD	\$111.96
	2022-00001464	02/15/2022	01/18-02/14/22 SVC - PECK RD S/O PELISIER	\$26.67
	2022-00001465	02/15/2022	01/18-02/14/22 SVC - VARIOUS SITES	\$71.03
<b>77718</b>	02/23/2022		<b>SOUTHERN CALIFORNIA EDISON</b>	<b>\$79.23</b>
	Invoice	Date	Description	Amount
	2022-00001459	02/18/2022	01/18-02/14/22 SVC - 19001 TONNER CYN RD	\$79.23
<b>77719</b>	02/23/2022		<b>WALNUT VALLEY WATER DISTRICT</b>	<b>\$3,170.37</b>
	Invoice	Date	Description	Amount
	4243915	02/08/2022	01/01-01/31/22 SVC - PUMP STN N/W CHERYL	\$33.58
	4243935	02/08/2022	01/01-01/31/22 SVC - PUMP STN BREA CYN	\$24.97
	4244164	02/08/2022	01/01-01/31/22 SVC - NOGALES PUMP STN	\$64.30

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date	Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>			
4243030	02/08/2022	01/01-01/31/22 SVC - IRR 820 FAIRWAY DR	\$64.30
4243082	02/08/2022	01/01-01/31/22 SVC - LEMON AVE N OF CURRIER RD	\$45.40
4243196	02/08/2022	01/01-01/31/22 SVC - 60 FWY INTERCHANGE FAIRWAY	\$35.09
4243116	02/08/2022	01/01-01/31/22 SVC - BREA CYN RD & OLD RANCH RD	\$51.31
4243132	02/08/2022	01/01-01/31/22 SVC - FERRERO & GRAND EAST RAMP	\$671.06
4243150	02/08/2022	01/01-01/31/22 SVC - BAKER PWKY METER #1	\$117.58
4243151	02/08/2022	01/01-01/31/22 SVC - BAKER PWKY METER #2	\$101.86
4243157	02/08/2022	01/01-01/31/22 SVC - GRAND AVE CROSSING	\$106.15
4243158	02/08/2022	01/01-01/31/22 SVC - GRAND AVE CROSSING	\$101.15
4243160	02/08/2022	01/01-01/31/22 SVC - 22002 VALLEY BLVD	\$33.58
4243177	02/08/2022	01/01-01/31/22 SVC - 21350 VALLEY-MEDIAN	\$63.13
4243178	02/08/2022	01/01-01/31/22 SVC - GRAND CROSSING EAST	\$45.40
4243179	02/08/2022	01/01-01/31/22 SVC - GRAND CROSSING WEST	\$55.25
4243180	02/08/2022	01/01-01/31/22 SVC - BAKER PKWY & GRAND N/W CNR	\$434.66
4243187	02/08/2022	01/01-01/31/22 SVC - E/S GRAND S/O BAKER PKWY	\$133.25
4243193	02/08/2022	01/01-01/31/22 SVC - BREA CYN N OF RR TRKS	\$129.65
4243194	02/08/2022	01/01-01/31/22 SVC - BREA CYN N OF CURRIER	\$37.06
4243219	02/08/2022	01/01-01/31/22 SVC - 21627 GRAND CROSSING PKWY	\$101.15
4243220	02/08/2022	01/01-01/31/22 SVC - 21627 GRAND CROSSING PKWY	\$103.29
4243227	02/08/2022	01/01-01/31/22 SVC - GRAND XING PKWY W/O GRAND	\$617.20
<b>77720</b>	<b>02/25/2022</b>	<b>A-1 MOBILE LOCKSMITH</b>	<b>\$2,036.30</b>
Invoice	Date	Description	Amount
4215	02/21/2022	RE-KEY INTERIOR OFFICE DOOR LOCKS - 15559-	\$2,036.30
<b>77721</b>	<b>03/01/2022</b>	<b>EDWARD D. MAGALLANES -</b>	<b>\$14,000.00</b>
Invoice	Date	Description	Amount
2/28/2022	02/28/2022	SETTLEMENT AGREEMENT	\$14,000.00
<b>77722</b>	<b>03/01/2022</b>	<b>FIDELITY SECURITY LIFE</b>	<b>\$1,304.63</b>
Invoice	Date	Description	Amount

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	165180627	03/01/2022	VISION PREMIUM FOR MARCH 2022	\$1,304.63
<b>77723</b>	03/01/2022		<b>HUMANA INSURANCE COMPANY</b>	<b>\$7,031.04</b>
	Invoice	Date	Description	Amount
	389690258	02/13/2022	DENTAL PREMIUM FOR MARCH 2022	\$7,031.04
<b>77724</b>	03/01/2022		<b>MUTUAL OF OMAHA - PAYMENT</b>	<b>\$6,740.30</b>
	Invoice	Date	Description	Amount
	1322023644	03/01/2022	LIFE INS PREMIUM FOR MARCH 2022	\$6,740.30
<b>77725</b>	03/01/2022		<b>UNUM LIFE INSURANCE COMPANY</b>	<b>\$7,958.80</b>
	Invoice	Date	Description	Amount
	3/1-3/31/22	02/18/2022	LONG TERM CARE PREMIUM FOR MARCH 2022	\$7,958.80
<b>77726</b>	03/02/2022		<b>AT &amp; T</b>	<b>\$101.89</b>
	Invoice	Date	Description	Amount
	2022-00001493	02/17/2022	02/17-03/16/22 SVC - TONNER GUARD SHACK	\$101.89
<b>77727</b>	03/02/2022		<b>FRONTIER</b>	<b>\$73.96</b>
	Invoice	Date	Description	Amount
	2022-00001491	02/19/2022	02/19-03/18/22 SVC - FOLLOW'S CAMP 23400 E FORK	\$73.96
<b>77728</b>	03/02/2022		<b>LA PUENTE VALLEY COUNTY</b>	<b>\$310.74</b>
	Invoice	Date	Description	Amount
	2022-00001494	03/01/2022	12/17-02/17/22 SVC - 15625 STAFFORD ST	\$92.16
	2022-00001495	03/01/2022	12/17-02/17/22 SVC - 15625 STAFFORD ST	\$218.58

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77729</b>	03/02/2022		<b>ROWLAND WATER DISTRICT</b>	<b>\$1,786.10</b>
	Invoice	Date	Description	Amount
	2022-00001478	02/23/2022	01/09-02/07/22 SVC - 755 NOGALES AT - RC	\$270.48
	2022-00001479	02/23/2022	01/09-02/07/22 SVC - 1023 NOGALES ST - IRR	\$86.52
	2022-00001480	02/23/2022	01/09-02/07/22 SVC - 1123 HATCHER ST STE C	\$50.52
	2022-00001481	02/23/2022	01/09-02/07/22 SVC - 1015 NOGALES ST - PUMP	\$315.38
	2022-00001482	02/23/2022	01/09-02/07/22 SVC - 1135 HATCHER AVE	\$46.92
	2022-00001483	02/23/2022	01/09-02/07/22 SVC - AZUSA AVE - RC	\$64.83
	2022-00001484	02/23/2022	01/09-02/07/22 SVC - 1123 HATCHER ST STE D	\$162.12
	2022-00001485	02/23/2022	01/09-02/07/22 SVC - 909 U NOGALES ST - IRR	\$608.52
	2022-00001486	02/23/2022	01/09-02/07/22 SVC - 1100 S AZUSA AVE	\$180.81
<b>77730</b>	03/02/2022		<b>SAN GABRIEL VALLEY WATER CO.</b>	<b>\$229.44</b>
	Invoice	Date	Description	Amount
	2022-00001490	02/24/2022	01/21-02/23/22 SVC - IRRIG SALT LAKE/SEVENTH	\$229.44
<b>77731</b>	03/02/2022		<b>SOCALGAS</b>	<b>\$16.63</b>
	Invoice	Date	Description	Amount
	2022-00001492	02/25/2022	01/24-02/23/22 SVC - 13756 VALLEY BLVD	\$16.63
<b>77732</b>	03/02/2022		<b>SOUTHERN CALIFORNIA EDISON</b>	<b>\$4,028.08</b>
	Invoice	Date	Description	Amount
	2022-00001496	02/22/2022	01/22-02/21/22 SVC - 1004 U FAIRWAY DR	\$208.18
	2022-00001497	02/22/2022	01/22-02/21/22 SVC - 1007 LAWSON ST	\$66.21
	2022-00001498	02/22/2022	01/22-02/21/22 SVC - 21380 VALLEY PED	\$17.55
	2022-00001499	02/22/2022	01/22-02/21/22 SVC - 575 BREA CYN RD	\$18.57



**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	2022-00001500	02/22/2022	01/22-02/21/22 SVC - 580 BREA CYN RD	\$18.42
	2022-00001502	02/24/2022	01/25-02/23/22 SVC - VARIOUS SITES	\$966.06
	2022-00001503	02/23/2022	12/22-01/23/22 SVC - 600 S BREA CYN RD UNIT A	\$27.72
	2022-00001504	02/23/2022	01/21-02/17/22 SVC - 1015 NOGALES ST	\$736.56
	2022-00001505	02/22/2022	01/04-02/21/22 SVC - VALLEY BLVD U-VARIOUS SITES	\$1,206.77
	2022-00001506	02/24/2022	01/25-02/23/22 SVC - BREA CYN RD-VARIOUS SITES	\$762.04
<b>77733</b>	03/02/2022		<b>SOUTHERN CALIFORNIA EDISON</b>	<b>\$308.96</b>
	Invoice	Date	Description	Amount
	2022-00001501	02/14/2022	01/07-02/06/22 SVC - 17100 TEMPLE AVE PED	\$308.96
<b>77734</b>	03/02/2022		<b>SUBURBAN WATER SYSTEMS</b>	<b>\$515.87</b>
	Invoice	Date	Description	Amount
	180081035004	02/22/2022	01/21-02/22/22 SVC - 205 HUDSON AVE	\$76.35
	180041807918	02/23/2022	01/25-02/23/22 SVC - AZUSA & GEMINI	\$439.52
<b>77735</b>	03/10/2022		<b>AKM CONSULTING ENGINEERS, INC.</b>	<b>\$2,384.00</b>
	Invoice	Date	Description	Amount
	0011456	02/08/2022	RECYCLED WATERLINE RELOCATION-TURNBULL	\$2,384.00
<b>77736</b>	03/10/2022		<b>ARAMARK REFRESHMENT SERVICE,</b>	<b>\$57.72</b>
	Invoice	Date	Description	Amount
	12256618	02/22/2022	COFFEE SVC & SUPPLIES	\$57.72
<b>77737</b>	03/10/2022		<b>AVANT-GARDE, INC</b>	<b>\$350.00</b>
	Invoice	Date	Description	Amount
	7472	02/17/2022	PROJECT MGMT-CITYWIDE BRIDGES	\$350.00

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77738</b>	03/10/2022		<b>B2 PRINT, LLC</b>	<b>\$2,356.12</b>
	Invoice	Date	Description	Amount
	0011172	02/09/2022	NOTICE OF PARKING VIOLATION FORMS	\$2,356.12
<b>77739</b>	03/10/2022		<b>BLAKE AIR CONDITIONING COMPANY</b>	<b>\$300.60</b>
	Invoice	Date	Description	Amount
	60463	11/04/2021	A/C INSPECTION-CITY HALL	\$300.60
<b>77740</b>	03/10/2022		<b>CASC ENGINEERING AND</b>	<b>\$3,147.50</b>
	Invoice	Date	Description	Amount
	0045743	01/31/2022	MND FOR 15120 VALLEY BLVD	\$800.00
	45687	01/31/2022	NPDES CONSULTING-COI	\$2,347.50
<b>77741</b>	03/10/2022		<b>CHEM PRO LABORATORY, INC</b>	<b>\$301.00</b>
	Invoice	Date	Description	Amount
	682683	01/23/2022	WATER TREATMENT-JAN 2022	\$301.00
<b>77742</b>	03/10/2022		<b>CINTAS CORPORATION LOC 693</b>	<b>\$146.34</b>
	Invoice	Date	Description	Amount
	4111251314	02/21/2022	DOOR MATS	\$73.17
	4110568331	02/14/2022	DOOR MATS	\$73.17
<b>77743</b>	03/10/2022		<b>CITY OF INDUSTRY</b>	<b>\$252.95</b>
	Invoice	Date	Description	Amount
	2022-00000039	01/31/2022	IH FUEL PUMP-CITY HALL VEHICLES	\$252.95

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77744</b>	03/10/2022		<b>CITY OF INDUSTRY-PAYROLL ACCT</b>	<b>\$200,000.00</b>
	Invoice	Date	Description	Amount
	PR P/E 2/18/22	02/28/2022	REPLENISH PAYROLL FOR P/E 2/18/22	\$200,000.00
<b>77745</b>	03/10/2022		<b>CIVILTEC ENGINEERING, INC</b>	<b>\$18,488.00</b>
	Invoice	Date	Description	Amount
	45632	02/15/2022	FOUR GRADE SEPARATION PUMP STATION	\$18,488.00
<b>77746</b>	03/10/2022		<b>CNC ENGINEERING</b>	<b>\$196,795.19</b>
	Invoice	Date	Description	Amount
	504802	02/24/2022	ANNUAL PAVEMENT REHABILITATION	\$105.00
	504754	02/24/2022	DESIGN-BUILD FOR SOLAR CARPORT CANOPY	\$3,820.00
	504755	02/24/2022	CITYWIDE SIGNAGE UPDATE	\$803.75
	504756	02/24/2022	SITE PLAN FOR SHERIFF TRAILER	\$826.44
	504757	02/24/2022	EL ENCANTO IMPROVEMENTS	\$2,187.50
	504758	02/24/2022	FOUR GRADE SEPARATION PUMP STATIONS	\$12,865.00
	504759	02/24/2022	KELLA AVE STORM DRAIN	\$1,800.00
	504760	02/24/2022	GALE AVE REALIGNMENT	\$3,222.50
	504761	02/24/2022	RESURFACING OF DON JULIAN RD	\$735.00
	504762	02/24/2022	PRELIMINARY DESIGN OF EW BICYCLE PATH	\$4,450.00
	504763	02/24/2022	GENERAL ENG SVC-COUNTER SERVICE	\$1,015.00
	504765	02/24/2022	GENERAL ENG 2/7-2/20/22	\$832.50
	504766	02/24/2022	GENERAL ENG SVC-TRAFFIC	\$5,450.00
	504767	02/24/2022	GENERAL ENG SVC-PLAN APPROVAL	\$6,081.25
	504768	02/24/2022	GENERAL ENG SVC-PERMITS	\$15,115.00

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date	Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>			
504769	02/24/2022	ARENTH AVE STREET IMPROVEMENT	\$2,887.50
504770	02/24/2022	RESURFACING VALLEY BLVD	\$12,442.50
504771	02/24/2022	GENERAL ENG SVC 2/7-2/20/22	\$85,845.00
504773	02/24/2022	TONNER CYN PROPERTY	\$2,335.00
504774	02/24/2022	REPLACEMENT OF STEEL WATERLINE-BREA CREEK	\$1,020.00
504775	02/24/2022	COLIMA RD WIDENING	\$1,122.50
504776	02/24/2022	STREET LIGHT OPERATIONS & MAINT	\$350.00
504777	02/24/2022	CHINO RANCH #1 DAM RENOVATION	\$505.00
504778	02/24/2022	CITY HALL MAINT	\$3,860.00
504779	02/24/2022	UPGRADES TO ELECTRONIC FREEWAY DISPLAY	\$2,033.75
504780	02/24/2022	HOMESTEAD MUSEUM IMPROVEMENTS	\$157.50
504781	02/24/2022	STIMSON AVE CROSSING	\$5,420.00
504782	02/24/2022	STIMSON AVE CROSSING	\$8,130.00
504783	02/24/2022	METROLINK OPERATION AND MAINT	\$645.00
504784	02/24/2022	EL ENCANTO IMPROVEMENTS	\$2,100.00
504785	02/24/2022	SAN JOSE AVE RECONSTRUCTION	\$7,432.50
504764	02/24/2022	GENERAL ENG-15010 DON JULIAN RD, 17521/17859	\$1,200.00
<b>77747</b>	<b>03/10/2022</b>	<b>CNC ENGINEERING</b>	<b>\$85,292.50</b>
Invoice	Date	Description	Amount
504786	02/24/2022	INDUSTRY HILLS FUEL TANKS DISPENSING	\$630.00
504787	02/24/2022	605 FWY AND VALLEY BLVD INTERSECTION	\$1,230.00
504788	02/24/2022	HIGHWAY BRIDGE PROBRAM FUNDING	\$6,320.00
504789	02/24/2022	FISCAL YEAR BUDGET	\$2,200.00
504790	02/24/2022	ROWLAND ST RECONSTRUCTION	\$7,011.25
504791	02/24/2022	BIXBY DR PCC PAVEMENT	\$630.00

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date	Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>			
504792	02/24/2022	FOLLOW'S CAMP PROPERTY	\$105.00
504793	02/24/2022	VARIOUS ASSIGNMENTS RELATED TO SA	\$440.00
504794	02/24/2022	NELSON AVE INTERSECTION	\$220.00
504795	02/24/2022	CARTEGRAPH MGMT	\$27,240.00
504796	02/24/2022	PLANETBIDS IMPLEMENTATION & MGMT	\$420.00
504797	02/24/2022	CATCH BASIN RETROFITS	\$2,887.50
504798	02/24/2022	HOMESTEAD MUSEUM UPGRADES	\$697.50
504799	02/24/2022	LEMON AVE QUIET ZONE	\$100.00
504800	02/24/2022	GRAND AVE RECONSTRUCTION	\$2,315.00
504801	02/24/2022	CITYWIDE STREET LIGHT LED UPGRADES	\$8,485.00
504803	02/24/2022	ADD SIDEWALK ON SOUTH SIDE OF TEMPLE AVE	\$255.00
504804	02/24/2022	15710-15718 RAUSCH RD BLDG IMPROVEMENT	\$220.00
504805	02/24/2022	RAUSCH RD SIDEWALK AND PARKING LOT	\$3,401.25
504806	02/24/2022	GALE AVE RESURFACING	\$7,250.00
504807	02/24/2022	ANNUAL PAVEMENT REHABILITATION	\$3,350.00
504808	02/24/2022	ANNUAL SLURRY SEAL FY 21/22	\$3,500.00
504809	02/24/2022	CITYWIDE SIGNING & STRIPING IMPROVEMENTS	\$1,860.00
504811	02/24/2022	SNOW CREEK STORM DRAIN	\$1,200.00
504812	02/24/2022	SR57/60 CONFLUENCE PROJ	\$300.00
504813	02/24/2022	GRAND AVE BRIDGE WIDENING	\$1,800.00
504814	02/24/2022	NOGALES GRADE SEPARATION	\$200.00
504815	02/24/2022	ALAMEDA CORRIDOR EAST RELATED PROJECTS	\$420.00
504816	02/24/2022	STIMSON AVE GRADE SEPARATION	\$605.00

<b>77748</b>	<b>03/10/2022</b>	<b>CONSILIO, LLC</b>	<b>\$1,684.16</b>
Invoice	Date	Description	Amount

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	INV304543	01/31/2022	DOCUMENT MGMT-JAN 2022	\$1,684.16
<b>77749</b>	03/10/2022		<b>DANGELO CO.</b>	<b>\$1,492.67</b>
	Invoice	Date	Description	Amount
	S1464439.001	02/10/2022	MISC SUPPLIES-TONNER CYN	\$1,492.67
<b>77750</b>	03/10/2022		<b>DAPEER, ROSENBLIT, AND LITVAK,</b>	<b>\$5,127.69</b>
	Invoice	Date	Description	Amount
	19870	01/31/2022	GENERAL CODE ENFORCEMENT-JAN 2022	\$4,823.79
	19871	01/31/2022	SPECIALIZED LEGAL SVC-JAN 2022	\$303.90
<b>77751</b>	03/10/2022		<b>DEPT OF ANIMAL CARE &amp; CONTROL</b>	<b>\$757.23</b>
	Invoice	Date	Description	Amount
	02/25/2022	02/25/2022	SHELTER COST-JAN 2022	\$757.23
<b>77752</b>	03/10/2022		<b>ELECTRA-MEDIA, INC</b>	<b>\$1,829.99</b>
	Invoice	Date	Description	Amount
	13231	02/10/2022	PUENTE HILLS AUTO DISPLAY-MAR 2022	\$1,829.99
<b>77753</b>	03/10/2022		<b>ENTERPRISE MAPS LLC</b>	<b>\$62,000.00</b>
	Invoice	Date	Description	Amount
	133	02/14/2022	AMAZON WEB SERVICES	\$62,000.00
<b>77754</b>	03/10/2022		<b>FEDERAL EXPRESS CORP.</b>	<b>\$144.08</b>
	Invoice	Date	Description	Amount
	7-666-14142	02/18/2022	MESSENGER SVC	\$144.08

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77755</b>	03/10/2022		<b>FUEL PROS, INC.</b>	<b>\$150.00</b>
	Invoice	Date	Description	Amount
	59669	01/31/2022	INDUSTRY HILLS FUEL STN MAINT	\$150.00
<b>77756</b>	03/10/2022		<b>INDUSTRY BUSINESS COUNCIL</b>	<b>\$141,040.93</b>
	Invoice	Date	Description	Amount
	DECEMBER 2021	02/28/2022	EXPENSE REIMBURSEMENT-DEC 2021	\$141,040.93
<b>77757</b>	03/10/2022		<b>INDUSTRY SECURITY SERVICES</b>	<b>\$57,880.34</b>
	Invoice	Date	Description	Amount
	14-26072	02/11/2022	SECURITY SVC-VARIOUS SITES	\$19,301.27
	14-26069	02/11/2022	SECURITY SVC 2/4-2/10/22	\$9,494.32
	14-26098	02/18/2022	SECURITY SVC-VARIOUS CITY SITES	\$19,590.43
	14-26095	02/18/2022	SECURITY SVC 2/11-2/17/22	\$9,494.32
<b>77758</b>	03/10/2022		<b>JANUS PEST MANAGEMENT</b>	<b>\$78.00</b>
	Invoice	Date	Description	Amount
	244516	01/14/2022	MOSQUITO TRAP-EL ENCANTO	\$78.00
<b>77759</b>	03/10/2022		<b>JEFF PARRIOTT PHOTOGRAPHIC</b>	<b>\$5,166.67</b>
	Invoice	Date	Description	Amount
	COI0222	03/01/2022	PROF SVC-HOMESTEAD	\$5,166.67
<b>77760</b>	03/10/2022		<b>JOE A. GONSALVES &amp; SON</b>	<b>\$10,045.00</b>
	Invoice	Date	Description	Amount

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	159640	02/16/2022	LEGISLATIVE SVC-FEB 2022	\$10,045.00
<b>77761</b>	03/10/2022		<b>KLEINFELDER, INC.</b>	<b>\$55,129.75</b>
	Invoice	Date	Description	Amount
	001365602	02/15/2022	FOUR GRADE SEPARATION PUMP STATION	\$4,018.75
	001365606	02/15/2022	STIMSON AVE RR CROSSING PAVEMENT	\$15,208.75
	001365587	02/15/2022	GALE AVE INVESTIGATION	\$24,010.00
	001365594	02/15/2022	SIXTH AVE RECONSTRUCTION	\$11,892.25
<b>77762</b>	03/10/2022		<b>L A COUNTY SHERIFF'S</b>	<b>\$935,988.94</b>
	Invoice	Date	Description	Amount
	221847AL	02/09/2022	SHERIFF CONTRACT-JAN 2022	\$934,257.35
	221893AL	02/16/2022	HELICOPTER SVC-JAN 2022	\$1,731.59
<b>77763</b>	03/10/2022		<b>LA PUENTE VALLEY COUNTY</b>	<b>\$286.78</b>
	Invoice	Date	Description	Amount
	BS;02/22	02/16/2022	WATER MONITORING-BOY SCOUTS RESERVE	\$286.78
<b>77764</b>	03/10/2022		<b>LEIGHTON CONSULTING INC</b>	<b>\$1,795.80</b>
	Invoice	Date	Description	Amount
	49372	02/23/2022	TESTING/INSPECTIONS-CHESTNUT/HATCHER AVE	\$1,795.80
<b>77765</b>	03/10/2022		<b>LOCKS PLUS, INC.</b>	<b>\$861.74</b>
	Invoice	Date	Description	Amount
	25187	02/16/2022	DUPLICATE KEYS	\$36.14
	35296	02/18/2022	REPAIR DOOR KNOBS-INDUSTRY HILLS	\$825.60



**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77766</b>	03/10/2022		<b>McKENNA BOILER WORKS, INC.</b>	<b>\$749.00</b>
	Invoice	Date	Description	Amount
	PS-INV105587	11/19/2021	INSPECTED BRYAN BOILER #2-EL ENCANTO	\$749.00
<b>77767</b>	03/10/2022		<b>MERRITT'S ACE HARDWARE</b>	<b>\$21.95</b>
	Invoice	Date	Description	Amount
	126977	02/09/2022	MISC SUPPLIES-HOMESTEAD	\$21.95
<b>77768</b>	03/10/2022		<b>MR PLANT &amp; INTERIOR BOTANICAL</b>	<b>\$805.00</b>
	Invoice	Date	Description	Amount
	MAR 17823	03/01/2022	PLANT MAINT-MAR 2022	\$805.00
<b>77769</b>	03/10/2022		<b>NEXUSTEK</b>	<b>\$67.50</b>
	Invoice	Date	Description	Amount
	260925	01/31/2022	SERVICE CALL-LASERFICHE	\$67.50
<b>77770</b>	03/10/2022		<b>OLMOS PROFESSIONAL SERVICES</b>	<b>\$8,782.00</b>
	Invoice	Date	Description	Amount
	418	02/28/2022	JANITORIAL SVC-IBC	\$1,467.00
	419	02/28/2022	JANITORIAL SVC-YAL	\$1,815.00
	417	02/28/2022	JANITORIAL SVC-CITY HALL	\$5,500.00
<b>77771</b>	03/10/2022		<b>PARS</b>	<b>\$600.00</b>
	Invoice	Date	Description	Amount
	49906	02/11/2022	ARS FEES-DEC 2021	\$300.00

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	50037	02/14/2022	REP FEES-DEC 2021	\$300.00
<b>77772</b>	03/10/2022		<b>PITNEY BOWES, INC.</b>	<b>\$148.93</b>
	Invoice	Date	Description	Amount
	3105347472	02/23/2022	POSTAGE MACHINE-FIRST FLOOR	\$148.93
<b>77773</b>	03/10/2022		<b>PLACEWORKS</b>	<b>\$1,992.50</b>
	Invoice	Date	Description	Amount
	77549	01/31/2022	HOUSING ELEMENT SVC	\$1,992.50
<b>77774</b>	03/10/2022		<b>POST ALARM SYSTEMS</b>	<b>\$319.60</b>
	Invoice	Date	Description	Amount
	1452663	02/10/2022	MONITORING SVC-HOMESTEAD	\$319.60
<b>77775</b>	03/10/2022		<b>R.J. NOBLE COMPANY</b>	<b>\$956,310.14</b>
	Invoice	Date	Description	Amount
	#2CITY-1463	03/01/2022	RESURFACING VALLEY BLVD	\$1,006,642.27
<b>77776</b>	03/10/2022		<b>BANNER BANK</b>	<b>\$50,332.13</b>
	Invoice	Date	Description	Amount
	#2CITY-1463-R	03/01/2022	RETENTION-RESURFACING VALLEY BLVD	\$50,332.13
<b>77777</b>	03/10/2022		<b>RICOH USA, INC.</b>	<b>\$662.12</b>
	Invoice	Date	Description	Amount
	5063864488	02/08/2022	METER READING-VARIOUS	\$354.41
	36164932	02/11/2022	COPIER LEASE-ENGINEERING	\$289.36

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
	5063895223	02/13/2022	METER READING-TREASURY	\$18.35
<b>77778</b>	03/10/2022		<b>ROWLAND WATER DISTRICT</b>	<b>\$30,671.95</b>
	Invoice	Date	Description	Amount
	I-01312022-C	01/31/2022	NOGALES DEWATERING BOOSTER STATION	\$30,671.95
<b>77779</b>	03/10/2022		<b>SATSUMA LANDSCAPE &amp; MAINT.</b>	<b>\$105,642.05</b>
	Invoice	Date	Description	Amount
	0222XROADS	02/25/2022	LANDSCAPE SVC-CROSSROADS PKY NORTH &	\$21,097.22
	0222TA	02/25/2022	LANDSCAPE SVC-TEMPLE & AZUSA	\$35,218.10
	0222CH	02/25/2022	LANDSCAPE SVC-CIVIC FINANCIAL CENTER	\$49,326.73
<b>77780</b>	03/10/2022		<b>SO CAL INDUSTRIES</b>	<b>\$190.74</b>
	Invoice	Date	Description	Amount
	550603	02/18/2022	FENCE RENTAL-INDUSTRY HILLS	\$90.34
	551378	02/23/2022	RR RENTAL-TONNER CYN/GRAND AVE	\$100.40
<b>77781</b>	03/10/2022		<b>SQUARE ROOT GOLF &amp; LANDSCAPE,</b>	<b>\$167,597.88</b>
	Invoice	Date	Description	Amount
	1600H-2	02/25/2022	SIGN REPAIR & INSTALLATION	\$4,542.64
	1600H-1	02/25/2022	GRAFFITI REMOVAL	\$1,594.63
	1599ELHM	02/25/2022	LANDSCAPE SVC-HOMESTEAD	\$19,306.41
	1597ELHM	02/25/2022	LANDSCAPE SVC-VARIOUS CITY SITES	\$9,305.20
	1598ELHM	02/25/2022	LANDSCAPE SVC-EL ENCANTO	\$8,647.50
	1600H	02/25/2022	LANDSCAPE SVC-VARIOUS CITY SITES	\$124,201.50

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77782</b>	03/10/2022		<b>STAPLES BUSINESS ADVANTAGE</b>	<b>\$567.85</b>
	Invoice	Date	Description	Amount
	8065227946	02/12/2022	OFFICE SUPPLIES	\$567.85
<b>77783</b>	03/10/2022		<b>STATE OF CALIFORNIA DEPT OF</b>	<b>\$49.00</b>
	Invoice	Date	Description	Amount
	562929	02/03/2022	FINGERPRINT SVC-JAN 2022	\$49.00
<b>77784</b>	03/10/2022		<b>SULLY MILLER CONTRACTING</b>	<b>\$30,857.91</b>
	Invoice	Date	Description	Amount
	#3CITY-1475	03/01/2022	ANNUAL PAVEMENT REHABILITATION	\$32,482.01
<b>77785</b>	03/10/2022		<b>THE TECHNOLOGY DEPOT</b>	<b>\$1,186.50</b>
	Invoice	Date	Description	Amount
	18154	02/17/2022	VEEAM BACKUP FOR FUEL PUMP	\$109.50
	18114	02/11/2022	NETWORK MAINT	\$82.50
	18155	02/18/2022	NETWORK MAINT	\$577.50
	18157	02/21/2022	VEEAM DESKTOP AND LAPTOP BACKUP	\$417.00
<b>77786</b>	03/10/2022		<b>WEATHERITE SERVICE</b>	<b>\$1,298.50</b>
	Invoice	Date	Description	Amount
	L194231	02/04/2022	A/C MAINT-15660 MAYOR DAVE WAY/15559 RAUSCH	\$458.00
	L194347	02/11/2022	A/C MAINT-CITY HALL	\$122.50
	L194249	02/04/2022	A/C MAINT-IBC	\$208.00
	L194342	02/11/2022	A/C MAINT-IBC	\$510.00

**CITY OF INDUSTRY  
WELLS FARGO BANK  
March 10, 2022**

Check	Date		Payee Name	Check Amount
<b>CITY.WF.CHK - City General Wells Fargo</b>				
<b>77787</b>	03/10/2022		<b>WEST COAST ARBORISTS, INC.</b>	<b>\$2,905.00</b>
	Invoice	Date	Description	Amount
	179708	11/30/2021	GPS TREE INVENTORY	\$1,605.00
	182595	02/15/2022	EMERGENCY TREE-PUBLIC ROW REMOVAL	\$1,300.00
<b>77788</b>	03/10/2022		<b>WESTERN POWER PROJECT</b>	<b>\$19,500.00</b>
	Invoice	Date	Description	Amount
	IPUC 06-A	02/22/2022	ENGINEERING SVC-STREETLIGHT SYSTEM	\$19,500.00

Check	Status	Count	Transaction Amount
	Total	79	\$3,236,432.72

*CITY COUNCIL*

ITEM NO. 5.2



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *gn*

**STAFF:** Tapas Dutta, Program Manager, CNC Engineering  
Mathew Hudson, Engineering Manager

**DATE:** March 10, 2022

**SUBJECT:** Consideration of a Professional Services Agreement with ADVANTEC Consulting Engineers, Inc. to provide an Intelligent Transportation Systems Master Plan, in an amount not-to-exceed \$175,060.00

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### **Background:**

In order to serve City businesses and residences more efficiently, Staff recommends that the City develop an Intelligent Transportation Systems (“ITS”) Master Plan to serve as a roadmap to design, implement, operate, and maintain the next generation of smart mobility technologies. The ITS system will be a flexible and open system, capable of adopting new technology and sharing traffic information with the public and other agencies. On November 8, 2021, ADVANTEC Consulting Engineers, Inc. (“ADVANTEC”) made a presentation to City Staff on its experience in developing ITS master plans with other Southern California agencies. ADVANTEC has provided or is providing similar services to agencies including the cities of Santa Monica, Downey, Culver City, Inglewood, Norwalk, Irvine, Lancaster, Ontario, San Clemente, Seal Beach, Palm Springs, La Quinta, as well as Los Angeles County, Caltrans, and Coachella Valley Association of Governments.

### **Discussion:**

Upon Staff’s request, ADVANTEC submitted a proposal for creating an ITS Master Plan for the City for an amount not-to-exceed \$175,060.00. The scope of services includes:

#### **1. Data Collection and Field Inventory**

This includes collecting City-wide information on traffic signals, communication systems, existing roadway improvements and future project plans.

#### **2. ITS Master Plan Report**

The Master Plan will analyze the data obtained from the data collection and field inventory and outline the roadmap to upgrade traffic signal controllers, communication systems and new technologies that enhance connectivity. These technologies may include adaptive traffic control, roadway performance measures, incident and special events management and realtime on board signal data to

truckers and other vehicles equipped with the appropriate hardware. The ITS solutions will provide enhanced operations and traffic management to improve mobility, safety and enhance the environment. Emergency operators and Los Angeles County Sheriff Department will be consulted to ascertain existing challenges which the ITS solutions will directly address. Options will be evaluated and a phased implementation of the upgrades recommended. Coordination with Los Angeles County, neighboring cities and Caltrans will occur to ensure compatibility with regional systems and future plans.

### **3. ITS Technology Assessment Report**

Technology assessment of the various ITS solutions will be done in order to assist the City in selecting the set of technologies that is best suited to the Cities specific needs. A Report will summarize the findings and recommendations.

Staff has reviewed the proposal and deemed it satisfactory, meeting the City's needs for this project.

#### **Fiscal Impact:**

The fiscal impact is \$175,060.00. In the adopted Fiscal Year 2021-2022 Capital Improvement Project budget, \$200,000.00 is approved for this project (Account No. 120-704-5130, MP 22-09) and no appropriations are required.

#### **Recommendation:**

Staff recommends the City Council approve the Professional Services Agreement with ADVANTEC Consulting Engineers, Inc.

#### **Exhibit:**

- A. Professional Services Agreement with ADVANTEC Consulting Engineers, Inc, dated March 10, 2022

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JN/TD:jf



**EXHIBIT A**

Professional Services Agreement with ADVANTEC Consulting Engineers, Inc, dated  
March 10, 2022

[Attached]

## CITY OF INDUSTRY

### PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”), is made and effective as of March 10, 2022 (“Effective Date”), between the City of Industry, a municipal corporation (“City”) and ADVANTEC Consulting Engineers, Inc., a California corporation (“Consultant”). The City and Consultant are hereinafter collectively referred to as the “Parties”.

#### RECITALS

**WHEREAS**, City desires to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

#### 1. TERM

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than December 31, 2023, unless sooner terminated pursuant to the provisions of this Agreement.

#### 2. SERVICES

(a) Consultant shall perform the tasks (“Services”) described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. (“Scope of Services”). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City and in a first-class manner in conformance with the standards of quality normally observed by an entity providing entity providing traffic engineering services, serving a municipal agency.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political

Reform Act (Government Code Section 81000 *et seq.*). During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working on the Effective Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) City has not consented in writing to Consultant's performance of such work. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

### **3. MANAGEMENT**

City Manager shall represent the City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

### **4. PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed One Hundred Seventy Five Thousand Sixty Dollars (\$175,060.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within 45 days of receipt of an invoice therefore.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT**

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City pursuant to Section 5 of this Agreement.

## **6. OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to review such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office, and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City all right, title, and interest, including any copyright, in and to

the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City.

**7. INDEMNIFICATION**

(a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnity other than for professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) Duty to defend.

In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City, Consultant shall have an immediate duty to defend the City at Consultant's cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant and City, as to whether liability arises from the sole negligence of the City or its officers, employees, or agents, Consultant will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as solely negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**8. INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

**9. INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

(c) Consultant shall indemnify, defend and hold harmless, the City, its elected officials, officers, employees and agents, from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including contributions to any retirement and/or pension plan, legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, Consultant's or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant, service as an independent contractor. The indemnity provisions set forth in this Section 10(c) shall survive the termination of this Agreement, and are in addition to any other rights or remedies the City may have under the law.

**10. LEGAL RESPONSIBILITIES**

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

## **11. UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

## **12. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

## **13. RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City, unless otherwise required by law or court order.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City of such Discovery, court order or subpoena. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

## **14. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which

provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City:	City of Industry 15625 Mayor Dave Way City of Industry, CA 91744 Attention: City Manager
With a Copy To:	Casso & Sparks, LLP 13300 Crossroads Parkway North, Suite 410 City of Industry, CA 91746 Attention: James M. Casso, City Attorney
To Consultant:	ADVANTEC Consulting Engineers, Inc. 1200 Roosevelt Irvine, CA 92620 Attention: Carlos Ortiz, Chief Operating Officer

#### **15. ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

#### **16. GOVERNING LAW/ATTORNEYS' FEES**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions



of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

**17. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**18. SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**19. COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**20. CAPTIONS**

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

**21. WAIVER**

The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

**22. REMEDIES**

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

**23. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

**“CITY”**  
City of Industry

**“CONSULTANT”**  
ADVANTEC Consulting Engineers, Inc.

By: \_\_\_\_\_  
Joshua Nelson, City Manager

By: \_\_\_\_\_  
Carlos Ortiz, Chief Operating Officer

**Attest:**

By: \_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

**Approved as to form:**

By: \_\_\_\_\_  
James M. Casso, City Attorney

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Rate Schedule
	Exhibit C	Insurance Requirements

## EXHIBIT A

### SCOPE OF SERVICES

Consultant shall provide the following engineering services for the Intelligent Transportation Systems (“ITS”) Master Plan project:

#### **Task 1 Data Collection and Field Inventory**

Consultant will coordinate with City Staff, collect and review available data for use and reference associated with the project, including the City’s traffic signals, communication systems, existing roadway improvements, and future project plans. Consultant’s Senior ITS/System Engineers will conduct a thorough field review at each project signalized intersection, along the project corridors, at locations to verify existing ITS elements, communication systems, communication hubs, and City Hall equipment.

#### **Task 2 ITS Master Plan Report**

The ITS Master Plan will address the existing traffic signal controllers (170 Type) and software (LA County LACO I and LACO III) and provide a transition plan to migrate to latest 2070 Advanced Traffic Controllers (“ATC”) and software. Consultant will discuss these options with Los Angeles County Public Works Department since they maintain the City’s traffic signal system. This will be used as the roadmap for the selection of the phased implementation plan, integration of state-of-the-art technologies, connectivity to City Hall, external Virtual Private Network (“VPN”) connectivity, and City preparation for integration of future transportation technologies. In addition, Consultant will discuss with City Staff to include inter-agency communications with adjacent cities and Caltrans, and with the County of Los Angeles Information Exchange Network (“IEN”). The ITS Master Plan will be prepared in report format and will include sections that address the following project elements: Executive Summary, Introduction, Existing Systems Inventory and Evaluation, Evaluation of Surrounding Systems, Assessment of ITS Opportunities, Development of System Engineering Management Plan (“SEMP”), Concept of Operations (“ConOps”) and Strategic Deployment Plan, Inter-Agency Communication Needs, Funding Strategies Plan, and System Requirement Plan. The ITS Master Plan can also include other ITS Solutions/Assessment and Evaluation of ITS Technologies. Consultant will provide the City with other ITS solutions that can enhance the City’s operations and traffic management of the intersections and roadway systems to improve mobility, safety, and enhance the environment. These technologies may include: adaptive traffic control, arterial performance measurements, special events management systems, incident management systems, CAV Technologies.

#### **Task 3 ITS Technology Assessment Report**

Consultant will provide a technology assessment to select and implement the “Open Architecture” technology (hardware and software) for new ITS field elements and ethernet communication systems. The technology assessment will include various ITS technologies that are currently available on the market. This includes identifying stakeholder needs, system requirements, preparing a list of available systems, a

description of each system, and a comparison analysis of each system's assembly, functional requirements, operational requirements, hardware requirements, communication requirements, performance, reliability, output data, performance measures, ease of installation, operation, maintenance, warranty, and interface with adjacent agencies, if required.

#### **Task 4      Project Management, Coordination and Meetings**

Consultant will provide project management and coordination activities throughout all the aspects of the project including project administration, monthly progress reports, invoices, and thorough quality control. Consultant will schedule and conduct a kick-off meeting with the City to discuss the overall project, planning and design objectives, constraints, requirements, schedule, develop action items, and understanding next steps. Consultant will conduct the kick-off meeting and up to eight (8) meetings at City Hall. As part of this task, Consultant will provide project coordination with City's project manager/stakeholders, as directed.

EXHIBIT B  
RATE SCHEDULE

<b>CLASSIFICATION</b>	<b>HOURLY RATE</b>
<b>Project Manager</b>	<b>\$340</b>
<b>Senior Technical Manager</b>	<b>\$260</b>
<b>QA/QC</b>	<b>\$260</b>
<b>System Engineer</b>	<b>\$190</b>
<b>Project Engineer</b>	<b>\$150</b>
<b>Project Engineer</b>	<b>\$150</b>
<b>Design Engineer</b>	<b>\$125</b>
<b>Senior Graphics/Cad Technician</b>	<b>\$150</b>

## EXHIBIT C

### INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

**General liability insurance.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**Automobile liability insurance.** Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

**Professional liability (errors & omissions) insurance.** Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

**Workers' compensation insurance.** Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

**Proof of insurance.** Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**Duration of coverage.** Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.

**Primary/noncontributing.** Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

**City's rights of enforcement.** In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

**Acceptable insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

**Waiver of subrogation.** All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

**Enforcement of contract provisions (non estoppel).** Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

**Requirements not limiting.** Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

**Additional insured status.** General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

**Prohibition of undisclosed coverage limitations.** None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

**Separation of Insureds.** A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

**Pass Through Clause.** Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

**City's right to revise specifications.** The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

**Self-insured retentions.** Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

**Timely notice of claims.** Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

**Additional insurance.** Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.



*CITY COUNCIL*

ITEM NO. 5.3



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *gn*

**STAFF:** Mathew Hudson, Engineering Manager  
Sean Calvillo, Director of Operations, CNC Engineering

**DATE:** March 10, 2022

**SUBJECT:** Consideration of a Right-Of-Way Contract with the San Gabriel Valley Council of Governments for various right of way properties for the State Route 57/60 Confluence Chokepoint Relief Project (MP 99-31 #22C)

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### **Background:**

Through a cooperative agreement between Caltrans and the Los Angeles County Metropolitan Transportation Authority (“Metro”), Metro was designated as the implementing agency for the State Route 57/60 Confluence Chokepoint Relief Project (“Project”) which includes Phase 1 - Diamond Bar Golf Course Project and Phase 2 – Project Interchange Improvements. Metro thereafter has delegated to the San Gabriel Valley Council of Governments (“SGVCOG”) responsibility to coordinate utility relocations, acquire rights of way, and oversee the bid, award and construction of the Project. The Project involves various modifications and reconstruction surrounding the interchange. The limits of the Project generally stretch from just south of the northbound State Route 57/60 merge, to eastbound SR-60 and south of the Golden Springs Drive overpass and along a portion of Grand Avenue from the City to City of Diamond Bar.

As part of the Grand Avenue and Golden Springs Intersection Improvement project, administered by the Successor Agency, the City Council approved the purchase from County of Los Angeles in July of 2020 and acquired approximately 32,735 sq. ft of right of way dedication, 129,233 sq. ft. of slope area, 3,048 sq. ft. of footing easement and 13,183 sq. ft. of access easement. Since the City now owns this, SGVCOG has requested the following rights-of-way for their Project.

The property interests to be acquired are two partial fee interests of approximately 6,711 and 2,320 square feet respectively, two footing easements of approximately 815 and 877 square feet respectfully, two access denial interests, two drainage easements of 2,185 and 761 square feet respectively, one permanent utility easement of 1,277.6 square feet and three sixty-two (62) month temporary construction easements of approximately 472, 111 and 2,820 square feet in size, all on the larger approximately 145,043 square foot parcel known as APNs 8717-001-270, 8717-001-271, and 8717-002-270 in Los Angeles County.

**Discussion:**

SGVCOG has appraised the value of the above subject properties for purchase. SGVCOG has submitted a total offer in the amount of \$26,800.00 based on their appraisal in a letter to the City, dated September 28, 2021. Staff have reviewed the appraisal and determined it to be fair and acceptable. City Council approval will allow SGVCOG to continue on with the implementation of the Project.

**Fiscal Impact:**

The fiscal impact is \$26,800.00 to be paid to the City for the sale of the various pieces of property under the Right-Of-Way Contract (Account No. 100-200-4355).

**Recommendation:**

Staff recommends the City Council approve the Right-Of-Way Contract with San Gabriel Valley Council of Governments.

**Exhibit:**

- A. Right-Of-Way Contract

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JN/MH/SC:jf

**EXHIBIT A**

Right-Of-Way Contract

[Attached]

**RIGHT OF WAY CONTRACT**

**CONFIDENTIAL**

This document contains personal information, and pursuant to Civil Code section 1798.21, it shall be kept confidential in order to protect against unauthorized disclosure.

District	County	Route	P.M. (KP)	E. A.	Fed. Ref.	Name	APN
7	LA	60	LA R24.404 LA R24.447	27912	_____	<u>57/60 Confluence Chokepoint Relief Project</u>	8717-001-270 8717-001-271 8717-002-270

CITY OF INDUSTRY, a municipal corporation

Grantor

**RIGHT-OF-WAY CONTRACT -- STATE HIGHWAY**

City of Industry, a municipal corporation (hereinafter, "Grantor"), owns the real property located at 22751 Golden Springs Drive, Diamond Bar, California 91765 in the County of Los Angeles, Assessor Parcel Numbers 8717-001-270, 8717-001-271 and 8717-002-270 (the "Property"). San Gabriel Valley Council of Governments ("SGVCOG") requires two (2) partial fee interests, including partial rights of access, of approximately 6,711 square feet and 2,320 square feet respectively, two (2) permanent footing easements of approximately 815 square feet and 877 square feet respectively, one (1) permanent drainage easement of approximately 2,946 square feet, one (1) permanent utility easement of approximately 1,277 square feet, and three (3) temporary construction easements of approximately 472 square feet, 111 square feet and 2,820 square feet respectively for the 57/60 Confluence Chokepoint Relief Project, a public project that includes adding an eastbound on-ramp bypass lane, constructing a new eastbound general purpose lane, and reconfiguring the Grand Avenue westbound on-ramp and eastbound on-and off-ramps, widening of Grand Avenue and the reconstruction of bridge overcrossing, construction of an eastbound SR-60 off-ramp bypass, and Diamond Bar Boulevard interchange configurations to improve mobility, operation, and safety of highways users. The Project boundaries are from just south of the northbound SR-57/SR-60 merge to eastbound SR-60 and south of the Golden Springs Drive overpass and along a portion of Grand Avenue from the City of Industry to the City of Diamond Bar, in the County of Los Angeles, in the State of California (the "Project"). Grant Deeds, Easement Deeds and Temporary Construction Easement Deeds in the forms substantially similar to Exhibits 1 - 8 attached hereto, covering the property interests as described and depicted in Exhibits 1 - 8 and Exhibits "A" and "B" attached thereto (the "Property Interests"), will be executed during the escrow to be opened for this transaction.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement ("Agreement"). The performance of this Agreement constitutes the entire consideration for the Property Interests and shall relieve SGVCOG of all further obligations or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
- (B) SGVCOG requires said Property Interests described in Exhibits 1-8 for the Project, a public use for which SGVCOG has the authority to exercise the power of eminent domain. This Agreement is executed under the threat of eminent domain.
- (C) Both Grantor and SGVCOG recognize the expense, time, effort, and risk to both parties in determining the compensation for the Property Interests by eminent domain litigation. The compensation set forth herein for the Property Interests is in compromise and settlement, in lieu of such litigation.
- (D) It is agreed that SGVCOG may open an escrow in accordance with this Agreement at Commonwealth Land Title Company or another selected escrow company ("Escrow Agent"), escrow number to be determined. This Agreement constitutes the joint escrow instructions of SGVCOG and Grantor, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to perform all acts reasonably necessary to close this escrow within sixty (60) days following the opening of escrow.

**RIGHT OF WAY CONTRACT****CONFIDENTIAL**

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2. (A) SGVCOG shall pay the undersigned Grantor the sum of Twenty-Six Thousand Eight Hundred Dollars (\$26,800.00) for the Property Interests conveyed by Exhibits 1-8 when title to said Property Interests vests in SGVCOG free and clear of all liens, deeds of trusts, encumbrances, assessments, easements and leases (recorded and/or unrecorded), and taxes, except:
    - i. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
    - ii. Covenants, conditions, restrictions and, reservations of record as contained in the title report (Commonwealth Land Title Company order number 92014540-920-CMM-CM8).
    - iii. Easements or rights-of-way over said land for public or quasi-public utility or public street purposes, if any.
  - (B) SGVCOG shall pay all escrow and recording fees incurred in this transaction, and if title insurance is desired by SGVCOG, the premium charged therefore. Due to SGVCOG's status as a public agency, no recording fees will be payable (pursuant to Government Code Section 27383) and no documentary tax will be payable (pursuant to Revenue & Taxation Code Section 11922).
  - (C) SGVCOG shall have the authority to deduct and pay from the amount shown on Clause 2(A) above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments which have become a lien at the close of escrow.
3. FULL AND COMPLETE SETTLEMENT. Grantor hereby acknowledges that it is the sole and lawful owner of the Property and the compensation paid to Grantor through this Agreement constitutes the full and complete settlement of any and all claims against SGVCOG, City of Diamond Bar, County of Los Angeles, Los Angeles County Metropolitan Transportation Authority (METRO), and the State of California, Department of Transportation (hereinafter "Releasees") by reason of the acquisition of the Property Interests, including, but not limited to, any and all rights or claims that Grantor had, currently has, or may in the future have under Article 1, Section 19 of the California Constitution, the Eminent Domain Law, or any other law or regulation, except as provided herein. Grantor, on behalf of itself and its successors and assigns, further knowingly and voluntarily waives and expressly releases and discharges Releasees and any and all of Releasees' employees, agents, officers, servants, representatives, contractors, attorneys, partner agencies and assigns, from liability in regard to any claims for the following: pre-condemnation damages, inverse condemnation, lost business goodwill, lost profits, lost rents, severance damages, mitigation damages, curative costs, landscaping, compensation for the construction and use of the Project in the manner proposed, damage to or loss of improvements pertaining to the realty, machinery, fixtures, inventory, equipment and/or personal property, interest, any right to repurchase, leaseback, or receive any financial gain from, the sale of any portion of the Property Interests, any right to challenge the adoption of a resolution of necessity, any right to receive any notices pursuant to Code of Civil Procedure section 1245.235, any right to enforce any obligation pursuant to the Eminent Domain Law, any other rights conferred upon Grantor pursuant to the Eminent Domain Law, and claims for litigation expenses, attorney's fees, statutory interest and/or costs. Grantor further consents to the dismissal of any Eminent Domain proceeding that is filed pertaining to the Property Interests and further waives all attorney's fees, costs, claims to money on deposit, disbursements and expenses in connection with the dismissal of said proceeding.
  4. The parties intend that this Agreement will result in a full, complete, and final resolution and settlement of any and all claims, causes of action or disputes which exist, or may exist, between them as to the acquisition, possession and/or use of the Property Interests, except as expressly provided herein. It is therefore understood that the waiver, under this Agreement, of any rights, damages, compensation, or benefits to which Grantor is, or may be, entitled is intended to be full and complete. Accordingly, except as provided herein:
    - (A) Pursuant to the releases set forth in this Agreement, Grantor specifically waives the provision of section 1542 of the Civil Code of the State of California, which provides:

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"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

- (B) Grantor represents and warrants that it understands the effect of this waiver of section 1542 and has had the opportunity to discuss the effect of this waiver with counsel of its choice.
5. Any monies payable under this Agreement up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with the terms and conditions of said deed(s) of trust or mortgage(s), shall upon demand(s) be made payable to the mortgagee(s) or beneficiary(ies) entitled thereunder; said mortgagee(s) or beneficiary(ies) are to furnish Grantor with good and sufficient receipt showing said monies credited against the indebtedness secured by said mortgage(s) or deed(s) of trust.
  6. Grantor represents and warrants that it is the fee simple owner of the Property and that it has the right to convey the Property Interests. Grantor represents and warrants that it will defend and indemnify SGVCOG, its successors and/or assigns in the amount of any due and unpaid real property taxes, assessments, liens and any penalties and delinquencies on the Property for which Grantor is obligated to pay. Grantor represents and warrants that it has made no assignment of any interest in the Property.
  7. Reserved.
  8. It is understood and agreed by and between the parties hereto that included in the amount payable under Clause 2(A) above is payment in full to compensate Grantor for the purchase of the following improvements, including but not limited to: None.
  9. It is understood and agreed by and between the parties hereto that the following improvements within the Property Interests will be protected in place: None.
  10. SGVCOG shall not take actual/physical possession of the Property Interests until thirty (30) day advance notice by SGVCOG or SGVCOG's contractor is given to Grantor of SGVCOG's taking actual/physical possession of the Property Interests. Prior to SGVCOG's actual/physical possession of the Property Interests, Grantor agrees to hold harmless, defend and indemnify SGVCOG its officers, directors, employees and agents against any and all claims including property damage or injuries resulting from the use of the area within the Property Interests by Grantor and/or Grantors' guests, invitees, or any other person. SGVCOG shall not be deemed to have control of the Property Interests nor duty to maintain the Property Interests in a safe condition prior to the time SGVCOG or SGVCOG's contractor take actual/physical possession of the Property Interests.
- Grantor agrees to notify SGVCOG in writing within thirty (30) days of any potential claim relating to the area within the Property Interests prior to SGVCOG taking actual/physical possession of the Property Interests.
11. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the Property Interests by SGVCOG, including the right to remove and dispose of improvements, shall commence on the date the amount of funds as specified in Clause 2(A) above are deposited into the escrow controlling this transaction. The amount shown in Clause 2(A) above includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.
  12. It is understood and agreed by and between the parties hereto that payment as provided in Clause 2(A) includes, but is not limited to, payment for any and all past, present, and/or future damages which have accrued or may accrue to Grantor's remaining property by reason of its severance from the Property Interests conveyed herein and the construction and use of the proposed Project, including, but not limited to, any expense which Grantor may incur in

**RIGHT OF WAY CONTRACT**

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restoring the utility of the remaining property. This release does not extend to any physical damage to Grantor's remaining property caused by construction of the Project.

- 13. It is agreed between the parties hereto that SGVCOG is not assuming responsibility for payment or subsequent cancellation of unpaid assessments on the Property Interests acquired under this transaction. Said assessments include but are not limited to any assessments listed in the title report (Commonwealth Land Title Company, order number 92014510-920-CMM-CM8). Grantor acknowledges that it has received and reviewed the Preliminary Title Report. The assessments remain the obligation of Grantor. Payment for the Property Interests acquired under this transaction is made upon the basis that the Grantor retains its obligation to the levying body respecting said assessments. The Property Interests acquired under this transaction is to be free and clear of any liens, bonds and/or assessments at the close of escrow.
- 14. The Temporary Construction Easements shall be for a period of sixty-two (62) months ("TCE Term"). The TCE Term shall commence upon the date the amount of funds specified in Clause 2(A) above are deposited into escrow controlling this transaction. Grantor agrees to keep the fee and TCE areas free and clear of all materials, shrubbery, crops, improvements, personal property, and debris after the opening of escrow. Grantor agrees that any materials, shrubbery, crops, improvements, personal property and debris within the fee and TCE areas that remains after SGVCOG takes actual/physical possession of the fee and TCE areas may be removed by SGVCOG and/or its contractor. Grantor further agrees that the cost of removal of any materials, shrubbery, crops, improvements, personal property, or debris that are installed after SGVCOG takes actual/physical possession shall be the sole responsibility of Grantor.
- 15. Any notice either party may or is required to give the other shall be in writing, and shall be either personally delivered or sent by registered or certified mail, return receipt requested. If by mail, service shall be deemed to have been received by such party at the time the notice is delivered to the following addresses:

**To Grantor:**  
 City of Industry  
 15625 Mayor Dave Way, Suite 100  
 City of Industry, CA 91744  
 Attention: Joshua Nelson, P.E., City Manager

**To SGVCOG:**  
 San Gabriel Valley Council of Governments  
 4900 Rivergrade Road, Suite A120  
 Irwindale, CA 91706  
 Attn: Eric Shen

**With copies to:**  
 Woodruff, Spradlin & Smart  
 555 Anton Boulevard, Suite 1200  
 Costa Mesa, CA 92626  
 Attn: Craig Farrington/Alyson Suh

- 16. It is understood and agreed by and between the parties hereto that this Agreement inures to the benefit of, and is binding on, the parties, their respective heirs, personal representatives, subsequent purchasers, successors, and/or assignees. SGVCOG may freely assign any or all of its interests or rights under this Agreement.
- 17. Grantor represents and warrants that during the period of Grantor's ownership of the Property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous wastes on, from, or under the Property. Grantor further represents and warrants that Grantor has no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes on, from, or under the Property which may have occurred prior to Grantor taking title to the Property.



**RIGHT OF WAY CONTRACT**

**CONFIDENTIAL**

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The acquisition price of the Property Interests being acquired in this transaction reflects the full and complete settlement of the Property Interests without the presence of contamination. If the Property Interests being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, SGVCOG may elect to recover its clean-up costs from those who caused or contributed to the contamination including, but not limited to, Grantor.

- 18. It is understood and agreed that the fully executed Grant Deeds, Easement Deeds and TCE's may be recorded in the Recorder's Office for the County of Los Angeles.
- 19. SGVCOG reserves the right to cancel escrow and terminate this Agreement if at any time SGVCOG determines that the Property Interests are no longer needed for the Project.
- 20. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement and may not be modified except by an instrument in writing signed by the party to be bound thereby.
- 21. If any term or provision of this Agreement shall be held to be invalid or unenforceable, the remainder of the Agreement shall remain in full force and effect.
- 22. Each individual executing this Agreement on behalf of an entity represents and warrants that he or she has been authorized to do so by the entity on whose behalf he or she executes this Agreement and that said entity will thereby be obligated to perform the terms of this Agreement.
- 23. This Agreement may be executed in counterparts, including by facsimile and/or e-mail, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument.

*In Witness Whereof*, the Parties vested have executed this Agreement the day and year set forth below.

CITY OF INDUSTRY, a municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS  
(SGVCOG)

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

David DeBerry  
Attorney for San Gabriel Valley Council of  
Governments

*CITY COUNCIL*


ITEM NO. 5.4



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager 

**STAFF:** Mathew Hudson, Engineering Manager  
Gerardo Perez, Sr. Construction Manager, CNC Engineering

**DATE:** March 10, 2022

**SUBJECT:** Consideration of a Takeover Agreement with Arch Insurance Company, for Contract No. CIP-FAC-19-049-B (CITY-1456), Site Plan for Sheriff's Trailer

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### **Background:**

On December 21, 2021, the City Council terminated Contract No. CIP-FAC-19-049-B, (CITY-1456), Site Plan for Sheriff's Trailer, with MVC Enterprises, Inc. ("MVC"). The project is located on the vacant parcel adjacent to the existing Sheriff's trailer modular offices at 15530 Stafford Street. The improvements consist of grading the vacant parcel, construction of an asphalt concrete parking lot, concrete curb and gutters, landscaped islands, infiltration trenches and basins, drainage pipes, sewer laterals and new electrical services. Also, part of this contract includes procurement and installation of seven (7) 12-foot by 60-foot modular office trailers including foundation systems. Landscape and irrigation of the parcel are also included.

### **Discussion:**

The surety company, Arch Insurance Company ("Arch"), was notified by letter dated December 21, 2021, in accordance with the Standard Specifications for Public Works Construction, 2018 Edition, Section 6, Prosecution and Progress of the Work, Subsection, 6-7, Termination of the Contract for Default, Part 6-7.4, Responsibilities of the Surety, that the City had terminated the contract with MVC.

Under the performance bond obtained by MVC, Arch has agreed to assume all rights, obligations and liabilities of MVC under Contract No. CIP-FAC-19-049-B. Arch has hired a consultant, JS Held, to coordinate the completion of the project. Arch will hire their own contractor and subcontractors. All construction management and contract administration including all future change orders, plan revisions, payment applications, permits, resolution of stop notices, insurance and all other requirements of the contract will be coordinated through JS Held. Staff has begun coordination with JS Held.

In order for Arch to assume all rights, obligations and liabilities of this contract, the City must enter into a "Takeover Agreement" with Arch.

**Fiscal Impact:**

There is no additional fiscal impact associated with the Takeover Agreement.

**Recommendation:**

Staff recommends the City Council approve and execute the Takeover Agreement with Arch Insurance Company.

**Exhibit:**

A. Takeover Agreement

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JN/MH/GP:as

**EXHIBIT A**

Takeover Agreement

[Attached]

## TAKEOVER AGREEMENT

### CITY OF INDUSTRY – SHERIFF STATION SITE PLAN

#### I. RECITALS

1. The parties to this Takeover Agreement (“Agreement”) are Arch Insurance Company (“Arch” or “Surety”) and the City of Industry, a California municipal corporation, (“Owner”). This Agreement is effective as of the date last signed by any party (“Effective Date”).

2. Owner entered into a Contract (the “Contract”) with MVC Enterprises, Inc. dba Moreno Valley Construction (“MVC” or “Principal”) for MVC to furnish all labor and material and perform all work for the City of Industry Sheriff Station Site Plan (the “Project”) in accordance with the terms and provisions of the Contract, a copy of the Contract being attached hereto as Exhibit “A” and incorporated herein, including all Contract Documents forming a part of the Contract, as enumerated in the Contract and modifications, amendments and/or changes to the Contract effectuated prior to the Effective Date of this Agreement. References herein to the “Contract” shall be deemed to include references to all modifications, amendments and/or changes to the Contract effectuated prior to the Effective Date of this Agreement.

3. As required by the Contract, Surety issued Performance and Payment Bonds numbered SU1161814 with a penal sum of \$1,835,703, each identifying MVC as the principal and Owner as the obligee (the “Performance Bond” and “Payment Bond”), copies of these Bonds being attached hereto as Exhibit “B”, respectively, and incorporated herein;

4. On December 21, 2021, Owner terminated the Contract for MVC’s defaults thereunder. The Owner subsequently made demand upon the Performance Bond for Arch to complete the Project.

5. As of the date of MVC’s default under the Contract, certain work and other obligations of MVC remain to be performed under the Contract.

6. Surety acknowledges its obligations under the Performance Bond to perform and complete the Remaining Work/Obligations upon MVC’s default and termination by the Owner; accordingly, Surety agrees to complete the Remaining Work/Obligations by retaining one or more Completion Contractors, subject to written approval by Owner, to complete the Remaining Work/Obligations under the Contract, in accordance with the terms, conditions and other requirements of the Contract, subject to the terms and conditions of the Performance Bond and this Agreement.

7. The Owner acknowledges that Arch is acting in its capacity as the Surety for MVC in making arrangements for the performance and completion of the Remaining Work/Obligations.

NOW, THEREFORE, based on the exchange of valuable consideration, including the covenants and conditions of this Agreement, the receipt and sufficiency of which is acknowledged, and based on the Recitals set forth above which form a part of this Agreement, Surety and Owner agree to the following terms and conditions:

## **II. TERMS AND CONDITIONS**

1. Recitals. The above Recitals and the Terms and Conditions herein are contractual and not merely recitals and the agreements contained herein and consideration transferred are to satisfy the rights and obligations between Owner and Surety, except as to claims reserved by this Agreement.

2. Incorporation of the Contract. The Contract is incorporated by reference into this Agreement, including the Contract Documents, including but not limited to, any Addendum (which pertains to the Contract Documents), Notice Inviting Bids, Instructions to Bidders, Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Contract, the Bonds, permits, the Special Provisions, the Plans, Standard Plans, Standard Specifications, Reference Specifications, and all Modifications issued after the execution of the Contract All terms of the Contract are incorporated herein,

3. The Balance of the Contract Sum. Arch will procure the performance of the Remaining Work relying on, among other things, the Owner's representation that the outstanding earned and unpaid Contract funds in the amount of \$461,451.08 shall be paid to Arch. The Owner represents that the Balance of the Contract Sum is as follows:

Contract Price:	\$1,835,702.54
Approved Change Orders:	\$243,195.18
Current Contract Price:	\$2,078,897.72
<u>Amount Paid to Principal:</u>	<u>(\$1,671,446.64)</u>
“Balance of the Contract Sum”:	\$461,451.08

Owner agrees that the Balance of the Contract Sum is dedicated to and will be paid to Arch for the completion of the Remaining Work pursuant to this Agreement. Arch expressly reserves the right to verify all Contract fund accountings and to request the appropriate adjustments from the Owner and/or its representatives. The Balance of the Contract Sum shall be increased by the value of future Change Orders subsequently approved by Owner.

4. Surety to Perform Remaining Work. Surety shall be responsible for the completion of all Work in accordance with the entire Contract. Surety shall perform the Remaining Work through one or more completion contractors (hereinafter “Completion Contractor”), subject to written approval by the Owner, which Surety shall engage pursuant to the terms of a separate agreement. Owner hereby acknowledges that Surety is not acting as a contractor and is not licensed as a contractor in the State of California, and hereby agrees to fully and forever waive and release any and all claims that Owner might allege against Surety on the grounds that Surety is an unlicensed contractor for the

work performed pursuant to the Agreement.

5. Owner's Rights and Obligations Under the Contract. Except to the extent provided in this Agreement, Owner shall have all rights, obligations and responsibilities under the Contract with respect to Surety, to the reasonable extent and effect as if Surety had executed the Contract.

6. Owner's Right With Respect to Changes in the Work. Owner reserves the right, to the extent appropriate under the Contract and this Agreement, to issue Change Orders. The terms of these Change Orders, including attendant extensions of time and valuation of Change Order work, shall be determined as provided in the Contract. Surety reserves the right to refuse to perform any extra or additional work if such work constitutes a cardinal change under the Contract. Owner reserves the right to dispute that the extra or additional work constitutes a cardinal change and to immediately submit the dispute to mediation with a mutually agreeable mediator followed, if necessary, by legal action, including but not limited to any appropriate injunctive or other equitable relief.

7. Schedule for Completion of Remaining Work and New Completion Date. Within ten (10) calendar days after the Effective Date of this Agreement, Completion Contractor shall furnish to Owner all insurance certificates and other proofs of insurance required by the Contract, prior to starting work. The Owner will give a Notice to Proceed after all insurance requirements of the Contract have been met. Within thirty (30) days after the Notice to Proceed is issued, Surety and Owner will agree upon the "Takeover Final Completion Date" by which Surety shall complete the Project. Owner waives any right to liquidated damages permitted under the Contract accruing prior to the "Takeover Final Completion Date."

8. Completion Contractor. The Completion Contractor shall be a contractor to the Surety, and no contractual relationship shall exist between Owner and Completion Contractor pursuant to this Agreement. Insurance and license requirements for the Completion Contractor shall be in accordance with the Contract Documents. The Completion Contractor shall not be required to procure new surety bonds identifying the Owner as obligee. Owner acknowledges that, subject to the terms of the Contract, the Completion Contractor is authorized to make routine day-to-day decisions regarding the operation and manner of performing the Remaining Work, but does not have authority to: (i) agree to any changes in the Contract or Remaining Work other than minor design changes or clarifications that do not increase the Project's cost nor extend its schedule (ii) agree to any Change Orders; (iii) agree to any back charges or deductions of any nature; (iv) agree to any schedule changes; or (v) agree to any adjustments in the Contract amount or Remaining Work other than minor design changes or clarifications that do not increase the Project's cost nor extend its schedule, without the Surety's prior express written consent which shall be delivered to Owner as a condition precedent to the Completion Contractor negotiating items (i) through (v), such consent not to be unreasonably withheld. The Remaining Work shall be subject to inspection and acceptance by the Owner and applicable federal, state and local agencies with jurisdiction, as provided in the Contract. The Owner shall forward concurrently to Surety



(by U.S. Mail or email as appropriate), a copy of all its written communications directed to the Completion Contractor.

9. Surety Representative. All communications and administration will be between the Owner and the Surety and its consultant, Richard Tropp of J.S. Held, LLC (the "Consultant"). The Surety hereby designates and authorizes Consultant to sign, on Surety's behalf, any instrument which is required, or may be requested, by the Owner in connection with the administration of the Contract.

10. Preservation of the Penal Sum Of Performance Bond. The Owner hereby confirms that Arch's liability and obligation hereunder shall not extend beyond the penal sum of its Performance Bond. All payments made by Arch previously, and those made in the future, have been and will be credited against the penal sum of the Performance Bond, less the amount paid to Arch under the Contract and this Agreement. Neither this Agreement nor any other Arch act constitutes a waiver of such penal sum or an increase in the liability of Arch under the Performance Bond.

11. Payment Bond and Payment Bond Claims. The Payment Bond shall remain in full force and effect in accordance with its terms and provisions. The total liability of the Surety under the Payment Bond is limited to and shall not exceed the penal sum of the Payment Bond.

12. Payment Requisitions. Surety, through its Completion Contractor, shall submit to Owner whatever information or documentation is required regarding the work performed under the Contract, to conform and support the requisition process and schedule established under the Contract. Owner recognizes that Surety shall be completing the Remaining Work through the services of the Completion Contractor. Subject to requirements of the Contract Documents, Owner shall accept the Completion Contractor's work, progress of the work, quality of the work, conformance of the work to the requirements of the Contract, payments to others, warranty and maintenance of the work, and all other matters pertinent to the Contract, wherever such representations are required by the Contract, as if those representations had been made by Surety, since Surety may have no personal knowledge of such matters.

13. Satisfaction of Surety's Performance Obligation. Surety's satisfaction of its obligations under the Contract, the Bonds and this Agreement or Surety's expenditure of the Performance Bond Penal Sum, whichever comes first, shall satisfy Surety's performance obligations under the Contract, its Performance Bond and this Agreement. Owner represents that Principal would have been required to complete all of its obligations under the Contract had Principal not been declared to be in default and that, prior to the date of this Agreement and other than approved changed orders, Owner had not made any agreement with Principal that any item of work included in the Contract would not have to be performed.

14. Notices. All notices and correspondence to Owner, other than routine email correspondence, shall be mailed, with a copy by email, to:

Joshua Nelson  
City Manager  
15625 Mayor Dave Way  
City of Industry, CA 91744

with copy to:

James M. Casso  
City Attorney  
Casso & Sparks, LLP  
13300 Crossroads Parkway N  
Suite 410  
City of Industry, CA 91746

All notices and correspondence to Surety, other than routine email correspondence, shall be mailed and emailed to:

Susan D. Neff, Esq.  
Senior Surety Counsel  
Arch Insurance Company  
Harborside 3  
210 Hudson Street, Suite 300  
Jersey City, NJ 07311  
[sneff@archinsurance.com](mailto:sneff@archinsurance.com)

With a copy to:

Christopher Bunge  
Watt, Tieder, Hoffar & Fitzgerald, LLP  
4 Park Plaza, Suite 1000  
Irvine, California 92614  
[cbunge@watttieder.com](mailto:cbunge@watttieder.com)

and

Richard Tropp  
J.S. Held, LLC  
1701 Quail Street, Suite 200  
Newport Beach, California 92660  
[rtropp@jsheld.com](mailto:rtropp@jsheld.com)

15. No Third-Party Rights. Nothing in this Agreement shall be deemed to create any rights in favor of, or to inure to the benefit of, any third parties, or to waive or release any defense or limitation against third party claims.

16. All Claims Referred to Surety. Owner recognizes that Surety may be liable to unpaid suppliers and subcontractors of Principal. Other than as required by law, Owner agrees to make no representations or promises of payment to these suppliers and subcontractors and to refer all inquiries to Surety.

17. Surety's Performance Rights Confirmed. Nothing shall limit Surety's rights as a Completing Surety under the Contract and applicable law. Owner hereby recognizes those rights, including the right of equitable subrogation. Further, Owner recognizes Surety's rights as a performing Surety under the Contract, including the right to additional compensation or damages where allowed or appropriate under the Contract or applicable law for claims or matters arising after the date of this Agreement. The Owner expressly agrees and acknowledges: (i) that Surety is entering into this Agreement not as a contractor, but as a means of satisfying the Surety's performance bond obligations; (ii) that the Surety has provided to Owner the Completion Contractor, a licensed contractor under the laws of the State of California, to finish the Project; and (iii) that the Owner hereby forever releases and discharges any and all claims that the Surety is an unlicensed contractor.

18. Agreement Binding on Successors. This Agreement shall be binding upon the successors and assignees of Surety and Owner. Surety shall not assign this Agreement without the prior written consent of Owner. Assignment without such written consent shall be void.

19. No Modification Except in Writing. This Agreement cannot be modified except in a writing signed by both Owner and Surety.

20. This Agreement Controls. In case of conflict between the provisions of this Agreement and the provisions of the Contract and/or Performance and Payment Bonds, this Agreement shall control. Notwithstanding any other provision herein, this Agreement shall not be interpreted to limit any of the Owner's rights under the Contract or the Performance Bond. Further, this Agreement, the Contract and the Performance and Payment Bonds constitute the entire Agreement between Owner and Surety and, together, supersede all prior negotiations, representations, offers, other writings and oral statements of every description.

21. Construction and Application of Law. The parties stipulate that this Agreement and all agreements or documents incorporated herein shall not be subject to the rule of construction that a written agreement is construed against the party preparing or drafting that Agreement. The parties also agree that this Agreement and its performance shall be governed by and construed in accordance with all applicable local, state, and federal laws, regulations, rules, and ordinances.

22. Validity. The provisions of this Agreement shall be applied and interpreted in a manner consistent with each other so as to carry out the purposes and intent of the parties, but if for any reason any provision is unenforceable or invalid, such provision shall be deemed severed from this Agreement and the remaining provisions

shall be carried out with the same force and effect as if the severed provision had not been a part of this Agreement. The headings of the Paragraphs are included solely for convenience of reference, and if there is any conflict between such headings and the text of Agreement, the Agreement shall control. This Agreement shall be governed by the laws of the State of California and venue shall be the County of Los Angeles.

23. No Waiver. The failure of either party to exercise in any respect a right provided for in this Agreement shall not be deemed to be a subsequent waiver of the same right or of any other right.

24. Counterparts/Facsimile. This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be deemed to be an original with all the counterparts constituting but one and the same instrument. Additionally, facsimile signature shall bind the undersigned.

25. Reservation of Rights. Notwithstanding any contrary statement or provision of this Agreement, nothing contained herein nor any payments made pursuant hereto nor any performance hereunder shall constitute a waiver of any claims by any party to this Agreement.

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

27. Applicable Laws. In performing its obligations and duties under this Agreement, each party shall comply with all applicable local, state, and federal laws, regulations, rules, and ordinances.

28. Attorneys' Fees. In the event any action is brought between the parties hereto relating to this Agreement or the breach thereof, the prevailing party in such action shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs in connection with such action or proceeding.

**[SIGNATURES ON THE NEXT PAGE]**

WHEREFORE, the parties have executed this Agreement by their authorized representatives. This Agreement is effective as of the last date written below.

DATED: \_\_\_\_\_

CITY OF INDUSTRY

---

By: Joshua Nelson  
Its: City Manager

DATED: \_\_\_\_\_

ARCH INSURANCE COMPANY

---

By: Susan D. Neff  
Its: Senior Surety Counsel

*CITY COUNCIL*

ITEM NO. 5.5



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *gm*

**STAFF:** James Cramsie, Director of Engineering, CNC Engineering  
Arlene Lopez, Project Manager, CNC Engineering

**DATE:** March 10, 2022

**SUBJECT:** Consideration of Amendment No. 1 to the Professional Services Agreement with Tri-Star Industrial Supplies and Services, to render services as the Inspector of Record for the El Encanto Interior Improvements project, extending the term through March 12, 2024, revising the indemnity provisions, updating the rate schedule, increasing compensation by \$10,000.00, and updating the address for the City (CIP-FAC-19-064-B)

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### **Background:**

On March 12, 2020, the City Council approved a Professional Services Agreement (“Agreement”) with Tri-Star Industrial Supplies and Services, Inc. (“Tri-Star”), for Inspector of Record (“IOR”) services for the construction of the interior improvements at El Encanto Healthcare & Habilitation Center (“El Encanto”) in an amount not-to-exceed \$15,300.00, through March 12, 2022. Just as the construction of the project began, the coronavirus pandemic caused the facility to go into lockdown restricting the contractor and staff from entering the building. With the uncertainty of the pandemic and the constantly changing restrictions, construction has been delayed numerous times since then.

### **Discussion:**

In order to continue providing services, Staff recommends extending the term through March 12, 2024, updating the rate schedule to reflect Tri-Star’s current rates, and increasing compensation by \$10,000.00 to account for the increase in hourly rates. It is also necessary to include language requiring indemnity specific to independent contractors and update the address of the City.

### **Fiscal Impact:**

The fiscal impact for Amendment No. 1 is \$10,000.00. In the adopted Fiscal Year 2021-2022 Capital Improvement Project budget, \$801,937.00 is approved for this work (Account No. 120-726-5205) (CIP-FAC-19-064-B).

**Recommendation:**

It is recommended that the City Council approve Amendment No. 1 to the Professional Services Agreement with Tri-Star.

**Exhibit:**

- A. Amendment No. 1 to the Professional Services Agreement with Tri-Star Industrial Services, Inc. dated March 10, 2022
- 

JN/AL:jf



**EXHIBIT A**

Amendment No. 1 to the Professional Services Agreement with Tri-Star Industrial Services, Inc. dated March 10, 2022

[Attached]

**AMENDMENT NO. 1  
TO PROFESSIONAL SERVICES AGREEMENT**

This Amendment No. 1 to the Professional Services Agreement (“Agreement”) is made and entered into this 10th day of March, 2022, (“Effective Date”) by and between the City of Industry (“City”), a municipal corporation, and Tri-Star Industrial Supplies and Service, a California corporation, (“Consultant”). City and Consultant are hereinafter collectively referred to as the “Parties.”

**RECITALS**

**WHEREAS**, on or about March 12, 2020, the City Council approved a Professional Services Agreement (“Agreement”) with Consultant to provide inspection services as a certified Office of Statewide Health Planning and Development hospital inspector; and

**WHEREAS**, the term of the Agreement expires on March 12, 2022, and in order to allow the Consultant to continue the inspection services, it is necessary to extend term through March 12, 2024, revise the rate schedule to reflect Consultant’s current rates, and a companion increase in the compensation of \$10,000.00 to account for Consultant’s increased hourly rates. It is also necessary to update the Agreement to include language requiring indemnity specific to independent contractors, and revise the address of the City; and

**WHEREAS**, for the reasons set forth herein, City and Consultant desire to enter into this Amendment No. 1, as set forth below.

**AMENDMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

**1. TERM**

Section 1 is hereby revised to read in its entirety as follows:

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than March 12, 2024 unless sooner terminated to the provisions of this Agreement.

**4. PAYMENT**

The second sentence of Section 4(a) is hereby revised to read in its entirety as follows:

The amount shall not exceed Twenty Five Thousand Three Hundred Dollars (\$25,300.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.

**9. INDEPENDENT CONSULTANT**

Section 9(c) is hereby added to read in its entirety as follows:

(c) Consultant shall indemnify, defend and hold harmless, the City, its elected officials, officers, employees and agents, from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or cost of any kind, whether actual, alleged or threatened, including contributions to any retirement and/or pension plan, legal counsel fee and costs, court costs, interest, defense costs and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, Consultant's or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant, service as an independent contractor. The provisions of this Section 9(c) are effective as of March 12, 2020. The provisions of this Section 9(c) shall survive the termination of this Agreement and are in addition to any other rights or remedies the City may have under the law.

**14. NOTICES**

Section 14 is hereby revised to reflect the current address of the City:

To City: City of Industry  
15625 Mayor Dave Way  
City of Industry, CA 91744  
Attention: City Manager

**Exhibit B, Rate Schedule**

The Rate Schedule is hereby rescinded in its entirety and replaced with the rates set forth in Attachment 1, attached hereto, and incorporated herein by reference.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to the Agreement as of the Effective Date.

**“CITY”**  
**City of Industry**

**“CONSULTANT”**  
**Tri-Star Industrial Services, Inc.**

By: \_\_\_\_\_  
Joshua Nelson, City Manager

By: \_\_\_\_\_  
Lin Lindstedt, President

**Attest:**

By: \_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
James M. Casso, City Attorney

**ATTACHMENT 1**

**EXHIBIT B**

**RATE SCHEDULE**

The following rates shall apply for the Services under this Agreement:

Inspector of Record - \$150/HR (Hours of work are between 7AM to 3:30PM)

After Hours Rate - \$222.00/HR (Hours before 7AM and after 3:30PM)

Travel charge of \$107.00 per visit.

Minimum of four hours required for each site visit.

**EXHIBIT A TO AMENDMENT NO. 1  
PROFESSIONAL SERVICES AGREEMENT WITH TRI-STAR INDUSTRIAL  
SUPPLIES AND SERVICE, INC. DATED MARCH 12, 2020**

**CITY OF INDUSTRY**  
**PROFESSIONAL SERVICES AGREEMENT**

This PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is made and effective as of March 12, 2020 ("Effective Date"), between the City of Industry, a municipal corporation ("City") and Tri-Star Industrial Supplies and Service, a California Corporation ("Consultant"). The City and Consultant are hereinafter collectively referred to as the "Parties".

**RECITALS**

**WHEREAS**, City desires to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

**1. TERM**

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than March 12, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

**2. SERVICES**

(a) Consultant shall perform the tasks ("Services") described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. ("Scope of Services"). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City and in a first-class manner in conformance with the standards of quality normally observed by an entity providing inspection services as a certified Office of Statewide Health Planning and Development hospital inspector.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political

Reform Act (Government Code Section 81000 *et seq.*). During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working on the Effective Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) City has not consented in writing to Consultant's performance of such work. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

### **3. MANAGEMENT**

City Manager shall represent the City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

### **4. PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Fifteen Thousand Three Hundred Dollars (\$15,300.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within 45 days of receipt of an invoice therefore.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT**

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City pursuant to Section 5 of this Agreement.

## **6. OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City, and/or State law, that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles, and/or as required by the State of California, and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to review such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office, and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City all right, title, and interest, including any copyright, in and to



the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City.

## 7. INDEMNIFICATION

### (a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

### (b) Indemnity for other than professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) DUTY TO DEFEND. In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City, Consultant shall have an immediate duty to defend the City at Consultant's cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant and City, as to whether liability arises from the sole negligence of the City or its officers, employees, or agents, Consultant will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as solely negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**8. INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

**9. INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

**10. LEGAL RESPONSIBILITIES**

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

**11. UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

**12. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her

tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

**13. RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City, unless otherwise required by law or court order.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City of such Discovery, court order or subpoena. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

**14. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Industry  
15625 E. Stafford, Suite 100  
City of Industry, CA 91744  
Attention: City Manager

With a Copy To: Casso & Sparks, LLP  
13300 Crossroads Parkway North, Suite 410  
City of Industry, CA 91746  
Attention: James M. Casso, City Attorney

To Consultant:

Tri-Star Industrial Services, Inc.  
306 W. Katella Avenue #3A  
Orange, CA 92861  
Attention: Mr. Lin Lindstedt

**15. ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

**16. GOVERNING LAW/ATTORNEYS' FEES**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

**17. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**18. SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**19. COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**20. CAPTIONS**

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

**21. WAIVER**

The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

**22. REMEDIES**

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

**23. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

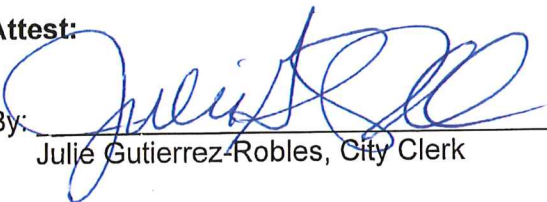
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

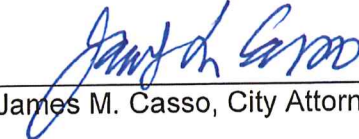
**"CITY"**  
City of Industry

By:   
Troy Helling, City Manager

**"CONSULTANT"**  
Tri-Star Industrial Services, Inc.

By:   
Lin Lindstedt, President

**Attest:**  
By:   
Julie Gutierrez-Robles, City Clerk

**Approved as to form:**  
By:   
James M. Casso, City Attorney

Attachments:      Exhibit A      Scope of Services  
                         Exhibit B      Rate Schedule  
                         Exhibit C      Insurance Requirements

EXHIBIT A

SCOPE OF SERVICES

Consultant shall provide the following services:

Serve as the Inspector of Record ("IOR") for the Office of Statewide Health Planning & Development ("OSHDP") for the El Encanto Interior Improvements project.

The IOR shall provide inspection during construction in accordance with the requirements mandated by OSHPD and interface with OSHPD personnel, if required. Consultant shall provide updates to City Staff and attend meetings with the City, as requested.

EXHIBIT B

RATE SCHEDULE

The following rates shall apply for the Services under this Agreement:

Inspector of Record - \$125.00/HR (Hours of work are between 7AM to 3:30PM)

After Hours Rate - \$190.00/HR (Hours before 7AM and after 3:30PM)

Minimum of four hours required each site visit.



## EXHIBIT C

### INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

**General liability insurance.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**Automobile liability insurance.** Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

**Professional liability (errors & omissions) insurance.** Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

**Workers' compensation insurance.** Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

**Proof of insurance.** Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**Duration of coverage.** Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.

**Primary/noncontributing.** Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

**City's rights of enforcement.** In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

**Acceptable insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

**Waiver of subrogation.** All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

**Enforcement of contract provisions (non estoppel).** Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

**Requirements not limiting.** Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

**Additional insured status.** General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

**Prohibition of undisclosed coverage limitations.** None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

**Separation of Insureds.** A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

**Pass Through Clause.** Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

**City's right to revise specifications.** The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

**Self-insured retentions.** Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

**Timely notice of claims.** Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

**Additional insurance.** Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

*CITY COUNCIL*

ITEM NO. 5.6



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *gm*

**STAFF:** Arlene Lopez, Project Manager, CNC Engineering  
Sean Calvillo, Director of Operations, CNC Engineering

**DATE:** March 10, 2022

**SUBJECT:** Consideration of Amendment No. 2 to the Professional Services Agreement with Gregg Maedo + Associates, Inc., for architectural services at El Encanto Healthcare and Habilitation Center, extending the term through August 1, 2023, revising the scope of services, revising the rate schedule, and increasing compensation by \$18,595.00

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### **Background:**

On July 29, 2020, the City Manager approved a Professional Services Agreement ("Agreement") with Gregg Maedo + Associates, Inc. ("Gregg Maedo") for architectural design services for the El Encanto nurse station remodel, in an amount of \$9,975.00. On August 26, 2021, the City Council approved Amendment No. 1 to the Agreement in the amount of \$4,600.00 for additional architectural and structural design services at El Encanto. The scope of work included the revision of construction drawings to reflect the change from prefabricated nurses' stations to wood frame nurses' stations as well as the completion of design services to obtain the California Department of Health Care Access and Information ("HCAI") (formerly OSHPD), plan check approval and the building permit.

### **Discussion:**

During the course of the original plan review, the overall design of the nurses' stations was approved. However, HCAI determined that ADA upgrades to the facility were necessary in order to obtain the final permit. It was determined that upgrading the main entrance doors fulfills this requirement. The main entrance doors will be designed to conform to ADA standards with automatic sliding doors and proper clearances. This work also requires structural and electrical engineering work. The Agreement expires on August 1, 2022, and after the project delays, the work is set to begin. Therefore, it is necessary to extend the Agreement through August 1, 2023 to account for these additional architectural design services, revise the rate schedule to reflect Gregg Maedo's current rates, along with a companion increase in compensation by \$18,595.00.

**Fiscal Impact:**

The fiscal impact is \$18,595.00. In the adopted 2021-2022 Capital Improvement Project budget, \$40,000 is approved (Account No. 120-712-5130) (CIP-FAC-19-064-B).

**Recommendation:**

Staff recommends the City Council approve Amendment No. 2 to the Agreement with Gregg Maedo + Associates, Inc.

**Exhibit:**

- A. Amendment No. 2 to the Professional Services Agreement with Gregg Maedo + Associates, Inc., dated March 10, 2022.

---

JN/AL/SC:jf

**EXHIBIT A**

Amendment No. 2 to the Professional Services Agreement with Gregg Maedo +  
Associates, Inc., dated March 10, 2022

[Attached]

**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT WITH  
GREGG MAEDO + ASSOCIATES, INC**

This Amendment No. 2 to the Professional Services Agreement (“Agreement”) is made and entered into this 10th day of March 2022, (“Effective Date”) by and between the City of Industry, a California municipal corporation (“City”) and Gregg Maedo + Associates, Inc, a California corporation (“Consultant”). The City and Consultant are hereinafter collectively referred to as the “Parties.”

**RECITALS**

**WHEREAS**, on or about July 29, 2020, the Agreement was entered into and executed between the City and Consultant for architectural services at El Encanto Healthcare and Habilitation Center; and

**WHEREAS**, on or about August 26, 2021, Amendment No. 1 was approved extending the term through August 1, 2022, revising the scope of services, increasing compensation by \$4,600.00, and revising indemnity provisions specific to independent contractors; and

**WHEREAS**, the Agreement expires on August 1, 2022, and an extension is needed through August 1, 2023 to allow Consultant to provide additional architectural services, along with revising the rate schedule to reflect Consultant’s current rates, and a companion increase in compensation by \$18,595.00; and

**WHEREAS**, for the reasons set forth herein, the City and Consultant desire to enter into this Amendment No. 2, as set forth below.

**AMENDMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

**1. TERM**

Section 1, Term, is hereby revised to read in its entirety as follows:

This Agreement shall commence on August 2, 2021, and shall remain and continue in effect until tasks described herein are completed, but in no event later than August 1, 2023, unless sooner terminated pursuant to the provisions of this Agreement.

**4. PAYMENT**

The second sentence of Section 4(a) is hereby amended to read in its entirety as follows:

This amount shall not exceed Thirty Three Thousand, One Hundred Seventy Dollars (\$33,170.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.



**Exhibit A, Scope of Services**

The Scope of Services is hereby revised to include the services set forth in Attachment 1, attached hereto, and incorporated herein by reference.

**Exhibit B, Rate Schedule**

The Rate Schedule is hereby rescinded in its entirety and replaced with the services set forth in Attachment 2, attached hereto, and incorporated herein by reference.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 2 to the Agreement as of the Effective Date.

**“CITY”**

City of Industry

**“CONSULTANT”**

Gregg Maedo + Associates, Inc.

By: \_\_\_\_\_  
Joshua Nelson, City Manager

By: \_\_\_\_\_  
Gregg Maedo, Principal

**Attest:**

By: \_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
James M. Casso, City Attorney

## ATTACHMENT 1

### EXHIBIT A

#### SCOPE OF SERVICES

Consultant shall provide the following additional services for the El Encanto Healthcare & Habilitation Center Nurse Station Remodel (Replacement of HCAI Project):

Provide and fill all HCAI plan check documents, including but not limited to construction documents, structural calculations, responses to plan check comments, and obtain HCAI plan check approval required for the following:

- Remodel Nurse Stations 1, 2, and 3 per interior designer's and City's previously approved design. Design to carry over from previously submitted HCAI project S210381-19-00 onto new project submittal.
- Upgrade main entrance doors with new Tormax automatic doors provided to the architect by the City on January 19, 2022.

Provide construction administration services during the construction phase as required, which shall include, but is not limited to, answering RFIs, reviewing submittals, attending field meetings for discussion with contractor for any issues identified in writing to Architect.

Deliverables:

Provide construction documents, calculations, and HCAI forms.

Services and Phases Included:

Architect

Structural Engineer (Calculations only)

Electrical Engineer

Field Investigation

Construction Documents

Agency Approvals

Construction Administration

Project Close-out

Meetings - As necessary and shall be billed time on an hourly basis.

**ATTACHMENT 2**  
**EXHIBIT B**  
**RATE SCHEDULE**

<b>CLASSIFICATION</b>	<b>RATE</b>
Principal	\$155/hour
Project Architect/Project Designer	\$125/hour
Project Manager/Designer	\$115/hour
Job Captain/Junior Designer	\$95/hour
Clerical	\$75/hour
Blended Hourly Rate (BHR) – All classifications listed above	\$115/hour

**EXHIBIT A TO AMENDMENT NO. 2**  
**PROFESSIONAL SERVICES AGREEMENT WITH GREGG MAEDO + ASSOCIATES**  
**INC. DATED JULY 29, 2020**

## CITY OF INDUSTRY

### PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is made and effective as of July 29, 2020 ("Effective Date"), between the City of Industry, a municipal corporation ("City") and Gregg Maedo + Associates, Inc., a California corporation ("Consultant"). The City and Consultant are hereinafter collectively referred to as the "Parties".

#### RECITALS

**WHEREAS**, City desires to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

#### 1. TERM

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than August 1, 2021, unless sooner terminated pursuant to the provisions of this Agreement.

#### 2. SERVICES

(a) Consultant shall perform the tasks ("Services") described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. ("Scope of Services"). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City and in a first-class manner in conformance with the standards of quality normally observed by an entity providing architectural services, serving a municipal agency.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political

Reform Act (Government Code Section 81000 *et seq.*). During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working on the Effective Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) City has not consented in writing to Consultant's performance of such work. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

### 3. MANAGEMENT

City Manager shall represent the City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

### 4. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Nine Thousand Nine Hundred Seventy Five Dollars (\$9,975.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within 45 days of receipt of an invoice therefore.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT**

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City pursuant to Section 5 of this Agreement.

## **6. OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to review such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office, and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City all right, title, and interest, including any copyright, in and to

the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City.

## 7. INDEMNIFICATION

### (a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

### (b) Indemnity for other than professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) DUTY TO DEFEND. In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City, Consultant shall have an immediate duty to defend the City at Consultant's cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant and City, as to whether liability arises from the sole negligence of the City or its officers, employees, or agents, Consultant will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as solely negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.



**8. INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

**9. INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

**10. LEGAL RESPONSIBILITIES**

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

**11. UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

**12. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her

tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

**13. RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City, unless otherwise required by law or court order.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City of such Discovery, court order or subpoena. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

**14. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Industry  
15625 E. Stafford, Suite 100  
City of Industry, CA 91744  
Attention: City Manager

With a Copy To: Casso & Sparks, LLP  
13300 Crossroads Parkway North, Suite 410  
City of Industry, CA 91746  
Attention: James M. Casso, City Attorney

To Consultant:

Gregg Maedo + Associates, Inc.  
321 N. Rampart St., Suite 101  
Orange, CA 92868  
Attention: Gregg Maedo, Principal

**15. ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

**16. GOVERNING LAW/ATTORNEYS' FEES**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

**17. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

18. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

21. WAIVER

The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

22. REMEDIES

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

23. AUTHORITY TO EXECUTE THIS AGREEMENT

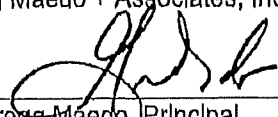
The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

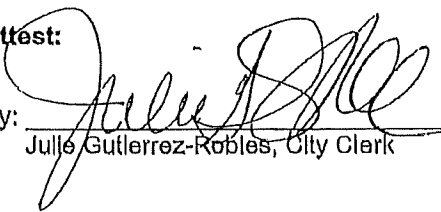
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

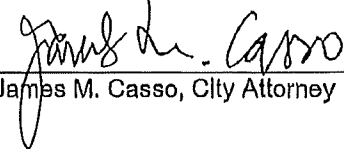
**"CITY"**  
City of Industry

**"CONSULTANT"**  
Gregg Maedo + Associates, Inc.

By:   
Troy Halling, City Manager

By:   
Gregg Maedo, Principal

**Attest:**  
By:   
Julie Gutierrez-Robles, City Clerk

**Approved as to form:**  
By:   
James M. Casso, City Attorney

- Attachments:
- |           |                        |
|-----------|------------------------|
| Exhibit A | Scope of Services      |
| Exhibit B | Rate Schedule          |
| Exhibit C | Insurance Requirements |

EXHIBIT A  
SCOPE OF SERVICES

Consultant shall provide the following services for the El Encanto Healthcare & Habilitation Center Nurse Station Remodel:

1. Provide architectural and structural design services for the three (3) Nurse Station Remodels, based on Construction Documents provided.
2. Obtain Office of Statewide Health and Planning Development ("OSHDP") plan check approval and building permit for the following:
  - 2.1. Permit nurse station remodels as an OSHPD project.
3. Provide Contract Administration Services during construction.
4. Project close-out services.
5. Attend meetings, as necessary.

EXHIBIT B  
RATE SCHEDULE

Classification	Rate
Architect	\$115.00/HR
Structural Engineer	\$2,000/fixed rate
Reimbursables	\$500.00

## EXHIBIT C

### INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

**General liability insurance.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**Automobile liability insurance.** Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

**Professional liability (errors & omissions) insurance.** Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

**Workers' compensation insurance.** Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

**Proof of insurance.** Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**Duration of coverage.** Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.



**Primary/noncontributing.** Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

**City's rights of enforcement.** In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

**Acceptable insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

**Waiver of subrogation.** All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

**Enforcement of contract provisions (non estoppel).** Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

**Requirements not limiting.** Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

**Notice of cancellation.** Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

**Additional insured status.** General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

**Prohibition of undisclosed coverage limitations.** None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

**Separation of Insureds.** A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

**Pass Through Clause.** Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

**City's right to revise specifications.** The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

**Self-insured retentions.** Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

**Timely notice of claims.** Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

**Additional insurance.** Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

*CITY COUNCIL*

ITEM NO. 5.7



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *gn*

**STAFF:** Bing Hyun, Assistant City Manager

**DATE:** March 10, 2022

**SUBJECT:** Consideration of Amendment No. 2 to the Professional Services Agreement with MuniEnvironmental, LLC, for Environmental and Recycling Consulting Services, extending the term through March 21, 2023, revising the scope of services and the rate schedule, and increasing the compensation by \$83,000.00

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### **Background:**

On March 22, 2018, the City Council approved a Professional Services Agreement (“Agreement”) with MuniEnvironmental, LLC, for environmental and recycling consulting services, in an amount not to exceed \$1,000,000.00, from March 22, 2018 through March 21, 2021. The Agreement allowed the City to grant two (2) one (1) year extensions.

Amendment No. 1 was approved on May 27, 2021 extending the term through March 21, 2022, revising the scope of services, increasing compensation to \$333,300.00, amending the indemnity provisions, and the contact information for the City Attorney’s office.

### **Discussion:**

The services currently provided by MuniEnvironmental include the following: assisting with AB 939 (California Integrated Waste Management Act of 1989) compliance, SB 1374 (mandatory construction diversion programming of 2002) compliance, California Green Building Code (2010 and forward) compliance, AB 341 (mandatory commercial recycling act) compliance, and SB 1383 (mandatory organics waste recycling outreach and enforcement) compliance.

Agreement No. 2 will extend the term for one year to March 21, 2023, revise the scope of services and rate schedule, and increase the compensation by \$83,000.00.

Table 1 – Summary of Consultant Costs

	Contract Amount
Professional Services Agreement	\$1,000,000.00
Amendment No. 1	\$333,300.00
Amendment No. 2 (proposed)	\$83,000.00
Total	\$1,416,300.00

**Fiscal Impact:**

The proposed Amendment No. 2 will add \$83,000.00 to the contract's not-to-exceed amount. The Fiscal Year 2021-22 budget for General Fund – Commercial Recycling & Waste Management Programs – Professional Services (Account No. 100-624-5120.01) has approximately \$200,000.00 remaining of the \$400,000.00 approved through the end of this fiscal year. No additional appropriations are needed at this time. The budget for Fiscal Year 2022-23 will account for expenditures beyond July 1, 2022 accordingly.

**Recommendation:**

Staff recommends that the City Council approve Amendment No. 2 to the Professional Services Agreement with MuniEnvironmental, LLC.

**Exhibit:**

- A. Amendment No. 2 to the Professional Services Agreement with MuniEnvironmental, LLC, dated March 10, 2022

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TH/BH:kt

**EXHIBIT A**

Amendment No. 2 to the Professional Services Agreement with  
MuniEnvironmental, LLC, dated March 10, 2022

[Attached]

**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT WITH  
MUNIENVIRONMENTAL, LLC**

This Amendment No. 2 to the Professional Services Agreement (“Agreement”), is made and entered into this 10<sup>th</sup> day of March, 2022 (“Effective Date”), by and between the City of Industry, a California municipal corporation (“City”) and MuniEnvironmental, LLC, a California limited liability company (“Consultant”). The City and Consultant are hereinafter collectively referred to as the “Parties”.

**RECITALS**

**WHEREAS**, on or about March 22, 2018, the City Council approved a Professional Services Agreement with the Consultant to provide professional environmental and recycling consulting services for the City; and

**WHEREAS**, on or about May 27, 2021, the City Council approved Amendment No. 1 extending the term to March 21, 2022, update the scope of services to remove stormwater monitoring tasks and add organics recycling and infrastructure services, revise the Rate Schedule, increase compensation by \$333,300.00, include indemnify language specific to independent contractors, and amend the address for providing notices to the City Attorney’s office; and

**WHEREAS**, the Parties desire to amend the Agreement to extend the term to March 21, 2023, update the scope of services, revise the Rate Schedule, and increase the compensation by \$83,000.00; and

**WHEREAS**, for the reasons set forth herein, the City and Consultant desire to enter into this Amendment No. 2, as set forth below.

**AMENDMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement, and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

**Section 1. TERM**

Section 1 is hereby amended to read in its entirety as follows:

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than March 21, 2023, unless sooner terminated pursuant to the provisions of this Agreement.

**Section 4. PAYMENT**

Section 4(a) is hereby amended to read in its entirety as follows:

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed One Million Four Hundred Sixteen Thousand Three Hundred Dollars (\$1,416,300.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.

**EXHIBIT A SCOPE OF SERVICES**

The Scope of Services is hereby rescinded in its entirety and replaced with the information set forth in Attachment 1, attached hereto and incorporated herein by reference.

**EXHIBIT B RATE SCHEDULE**

The Rate Schedule is hereby rescinded in its entirety and replaced with the information set forth in Attachment 2, attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the Parties here executed this Amendment No. 2 to the Agreement as of the Effective Date.

**"CITY"**  
**City of Industry**

**"CONSULTANT"**  
**MuniEnvironmental, LLC**

By: \_\_\_\_\_  
Cory C. Moss, Mayor

By: \_\_\_\_\_  
Jeff Duhamel, President

**Attest:**

By: \_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
James M. Casso, City Attorney



Attachment 1  
EXHIBIT A

SCOPE OF SERVICES

The Consultant shall provide aspects of environmental and recycling consulting services as directed by City staff, which include, but is not limited to:

<u>Task</u>	<u>Description</u>
1.0	AB 939 Solid Waste Reporting/Documents
2.0	AB 341 Salvage Recycling Permit Program
3.0	CALGreen (SB 1374) Construction and Demolition Debris Program
4.0	SB 1383 Organics Recycling Program Implementation, Site Visits, and Inspections
5.0	Community and Business Education and Outreach
6.0	Program Management
7.0	Interaction with CalRecycle/Annual Reporting/Formal and Non-Formal Plans
8.0	Organic Waste Infrastructure Program (General)
8.1	Site Identification, Initial Studies and Assessments
8.2	Project Infrastructure Budgeting & Costing
8.3	Technology Studies & Alternatives
9.0	On-Call Additional Services

Attachment 2

EXHIBIT B

RATE SCHEDULE

	Hourly Rate
Principal	\$195.00
Senior Consultant	\$170.00
Project Manager	\$160.00
Staff Consultant	\$150.00
Administration	\$ 65.00

City shall reimburse Consultant its actual costs for all photocopying and postage, upon submittal of evidence of said costs along with the monthly invoice, as set forth in the Agreement.

*CITY COUNCIL*

ITEM NO. 5.8



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *gn*

**STAFF:** Mat Hudson, Engineering Manager

**DATE:** March 10, 2022

**SUBJECT:** Consideration of Amendment No. 1 to the License Agreement with J. De Sigio Construction, Inc., for access to Assessor's Parcel No. 8262-015-901, located at the corner of Industry Hills Parkway and South Azusa Avenue, for temporary staging of construction materials and equipment

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### **Background:**

On April 22, 2021, the City Council approved a License Agreement ("Agreement") with J. De Sigio Construction, Inc., ("De Sigio"), for the temporary use of City owned property located at the corner of Industry Hills Parkway and South Azusa Avenue ("Property"). De Sigio has been using the property for a staging area while it installs 13,300 feet of water pipeline for Suburban Water System ("SWS") in the unincorporated area of the County commonly known as Valinda.

### **Discussion:**

The project began in April of 2021, and was scheduled to take approximately eight months to complete. However, construction has taken longer than anticipated and De Sigio requested an extension to the Agreement through December 31, 2022. The request to extend the Agreement was submitted prior to the expiration of the term. However, the City held off on the extension because of the possibility of a future project that would utilize the premises. As of now, the project has not begun and De Sigio will utilize the premises in the meantime. The City will issue a notice to vacate if the project begins before the term expiration. Amendment No. 1 will apply retroactively to January 1, 2022, and extend the Agreement through December 31, 2022.

### **Fiscal Impact:**

The City will continue to charge De Sigio \$150.00 per month, which is consistent with other license agreements the City has approved.

**Recommendation:**

- 1.) Staff recommends that the City Council approve Amendment No. 1 to the License Agreement with J. De Sigio Construction, Inc., dated January 1, 2022.

**Exhibit:**

- A. Amendment No. 1 to the License Agreement with J. De Sigio Construction, Inc., dated January 1, 2022.

---

JN/MH:yp

**EXHIBIT A**

Amendment No. 1 to the License Agreement with J. De Sigio Construction, Inc., dated  
January 1, 2022

[Attached]

**AMENDMENT NO. 1  
TO THE LICENSE AGREEMENT**

This Amendment No. 1 to the License Agreement (“**Agreement**”), is made and entered into this 1st day of January 2022, by and between the City of Industry, a California public body, corporate, and politic (“**Licensor/City**”) and J. De Sigio Construction, Inc., a California corporation (“**Licensee**”) (Licensor and Licensee are individually referred to as “**Party**” and collectively referred to as the “**Parties**”).

**RECITALS**

**WHEREAS**, on or about April 22, 2021, the Agreement was entered into and executed between the Licensor and Licensee, to allow Licensee to use a portion of City owned property located One Industry Hills Parkway, City of Industry, CA 91748 (APN 8262-015-901), (“**Premises**”); and

**WHEREAS**, pursuant to the terms of the Agreement, the Agreement terminated on December 31, 2021, however the Licensee desires to continue utilizing the Premises for the duration of the project and has requested an extension. Staff recommends that the term of the Agreement be extended to December 31, 2022; and

**WHEREAS**, it is also necessary to revise the Agreement to reflect the current address for the City; and

**WHEREAS**, for the reasons set forth herein, the City and Licensee desire to enter into this Amendment No. 1, as set forth below.

**AMENDMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

**Section 9. Term, Termination and Remedies.**

The first sentence of Section 9 is hereby revised to read in its entirety as follows:

The License shall commence as of January 1, 2022, and shall automatically terminate on **December 31, 2022.**

**Section 13. Notices**

The address for Licensor is hereby revised to read in its entirety as follows:

Joshua Nelson  
City Manager  
15625 Mayor Dave Way  
City of Industry, CA 91744  
Tel: (626) 333-2211  
jnelson@cityofindustry.org

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to the Agreement as of the Effective Date.

“LICENSOR”  
**CITY OF INDUSTRY**

“LICENSEE”  
**J. DE SIGIO CONSTRUCTION, INC.**

By: \_\_\_\_\_  
Joshua Nelson, City Manager

By: \_\_\_\_\_  
Eric Pivaroff, Operations Manager

ATTEST:

\_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
James M. Casso, City Attorney



*CITY COUNCIL*

ITEM NO. 5.9



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *JN*

**STAFF:** Mat Hudson, Engineering Manager

**DATE:** March 10, 2022

**SUBJECT:** Ratification of License Agreement with Doty Bros. Equipment Co., for access to Assessor's Parcel No. 8262-015-901, located at the corner of Industry Hills Parkway and South Azusa Avenue, for temporary staging of construction materials and equipment

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### **Background:**

Doty Bros. Equipment Co. ("Doty Bros") contacted the City regarding the temporary use of City owned property located at the corner of Industry Hills Parkway and South Azusa Avenue ("Property"). Doty Bros requested the use of the property while it worked on replacing a water main for Suburban Water Systems on Gemini Street and Backton Avenue in the City of La Puente. Due to the proximity to the project and its availability, the Property is ideal for a staging area.

### **Discussion:**

The project is scheduled to take approximately six months to complete. Doty Bros will store construction materials and equipment, including as ductile iron/steel pipe, fittings, aggregates-sand, temp cold mix, clean dirt for backfill backhoe, traffic delineators, and a storage container. Under the proposed license agreement, Doty Bros is required to prevent any environmental contamination on the Property by placing drip pans under staged equipment, straw waddle and filter fabric over nearby catch basins, and any active stockpiles must be covered during rain events to prevent runoff. The City granted permission to use the Property, but Staff could not present the item to the Council prior to move in. At this time, staff is requesting the Council ratify the Agreement with Doty Bros for its use of the Property.

### **Fiscal Impact:**

The City has been charging a fee of \$150.00 a month for temporary agreements and to remain consistent, a fee of \$150.00 per month is proposed for the requested license agreement. This fee is payable to the City in advance on the first day of each month during the term of the agreement.

**Recommendation:**

- 1.) Staff recommends that the City Council approve the License Agreement with Doty Bros. Equipment Co., dated February 22, 2022.

**Exhibit:**

- A. License Agreement with Doty Bros. Equipment Co., dated February 22, 2022.
- 

JN/MH:yp

**EXHIBIT A**

License Agreement with Doty Bros. Equipment Co., dated February 22, 2022

[Attached]

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“**Agreement**”), dated **February 22, 2022**, (“**Effective Date**”) is entered into by and between the City of Industry, a public body, corporate and politic (“**Licensor/City**”), and Doty Bros. Equipment Co, a California corporation (“**Licensee**”). Licensor and Licensee are individually referred to as “**Party**” and collectively referred to as the “**Parties**”.

### RECITALS

**WHEREAS**, the City is the owner of certain property located at One Industry Hills Parkway, City of Industry, CA 91748, and Licensee desires to enter the portion of the property generally described as a lot, **Assessor’s Parcel No. 8262-015-901**, as set forth in Exhibit A, attached hereto and incorporated herein by reference (“**Premises**”); and

**WHEREAS**, Licensee desires to utilize the Premises as a temporary staging area for construction materials and equipment related to the water main replacement project in the City of La Puente, connecting to Suburban Water’s existing system; and

**WHEREAS**, Licensee acknowledges that Licensee is entering onto the Premises at its sole risk and expense, and Licensor does not have any liability to Licensee under this Agreement.

**NOW, THEREFORE**, for valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### TERMS

1. License to Enter the Premises. Licensor hereby grants to Licensee a non-exclusive license (the “**License**”) granting permission to enter upon the Premises as of the Effective Date of this Agreement, and to use a portion of the Premises, as depicted in Exhibit A, for a temporary staging area for construction materials and equipment (collectively, “**Permitted Use**”); provided, that Licensee’s use of the Premises shall not interfere with the operation of business activities, if any, then being conducted on the Premises, and provided Licensee provides written notice to the Licensor at least five (5) days prior to Licensee first entering upon the Premises (said written notice shall state the purpose for the entry upon the Premises, and said entry shall not exceed the stated purpose). Prior to any initial entry pursuant to the License, Licensee shall provide to Licensor proof of insurance as set forth in Section 7 of this Agreement. Licensee shall not permit any other party, except the duly-authorized representatives, agents, employees and contractors (collectively “**Representatives**”) of Licensee to enter or use the Premises during the term of this License, without Licensor’s prior written consent, and in all events the sole reason for entry and use of the Premises shall be for the performance of Licensee’s Permitted Use.

2. Payment. Licensee shall pay Licensor, and Licensor shall accept payment of One Hundred Fifty Dollars (\$150.00) (“**License Payment**”) for the term of the Agreement, for the use of the Premises. Payment shall be due in advance on the effective date of this Agreement. Payment shall be made to Licensor at 15625 Mayor Dave Way, City of Industry, CA 91744.

3. Permitted Use. The Permitted Use is hereby defined to include storage of materials and equipment such as ductile iron/steel pipe, fittings, aggregates-sand, temp cold mix, clean dirt for backfill, backhoe, traffic delineators, and a storage container. Licensee shall exercise due care in the

performance of the Permitted Use and such use shall be exercised in a manner which complies with all applicable laws.

4. Maintenance of Premises. Prior to commencement of the Permitted Use, Licensee shall install a temporary construction fence around the staging area (unless permanent fence exists) on the Premises. During the term of the License, Licensee shall place drip pans under staged equipment, straw waddle and filter fabric over nearby catch basins, and any active stockpiles must be covered during rain events to prevent runoff. Upon termination of the License, Licensee shall repair any damage done to the Premises by Licensee or its duly authorized Representatives, including environmental contamination, and shall restore the Premises to its condition as of the Effective Date of this Agreement, which shall include removal of the temporary construction fence (unless permanent fence exists).

5. Government Regulations and Other Obligations of Licensee. As a condition precedent to commencement of the Permitted Use, if required, Licensee shall obtain at its sole cost and expense all governmental permits and authorizations of whatever nature required, if any (“**Permits**”) by any and all governmental authorities having jurisdiction over the Premises for Licensee’s exercise of the Permitted Use. Licensor shall use commercially reasonable efforts to cooperate with Licensee and to support any and all applications or request for said Permits submitted by Licensee or on Licensee’s behalf. Licensee shall, in all activities undertaken pursuant to this Agreement, comply and cause its Representatives to comply with all federal, state and local laws, statutes, orders, ordinances, rules, regulations, plans, policies and decrees.

6. Liens.

6.1 Licensee shall not cause or permit to be filed, recorded or enforced against the Premises, or any part thereof, any mechanics’, material men’s, contractors’ or subcontractors’ liens arising from the Permitted Use or any claim or action affecting the title to the Premises arising from the Permitted Use, and Licensee shall pay or cause to be paid, or otherwise removed or bonded over, the full amount of all such liens or claim within fifteen (15) days of receiving written notice thereof. In addition to and not in limitation of Licensor’s other rights and remedies under this Agreement or under law, should Licensee fail within fifteen (15) business days of a written notice from Licensor to pay and discharge or bond over any lien arising out of Licensee’s use of the Premises, then a material breach under this Agreement shall be deemed to have occurred which, at Licensor’s election, shall entitle Licensor to terminate this License effective upon notice by Licensor to Licensee so stating.

6.2 If Licensee desires to contest in good faith the validity of any lien or any claim or demand that could result in a lien against the Premises or any portion thereof for which Licensor could become liable if not successfully resolved, as a condition to such contest, Licensee shall notify Licensor of Licensee’s intent to contest the lien or claim and the grounds for such contest. Notwithstanding anything to the contrary set forth herein, Licensee shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Licensor or the Premises.

7. Insurance. Prior to entering the Premises and until the termination of this Agreement, Licensee shall maintain at its sole expense insurance limits as stipulated in this section.

7.1 Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as:

(a) Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(b) Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Licensee has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(c) Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(d) Environmental Impairment Liability Insurance shall be written on a Contractor’s Pollution Liability form or other form acceptable to the Licensor providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than \$1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as “covered operations.”

7.2 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

(a) Additional Insured Status. The Licensor and City Representatives, (as defined in Section 8, below) are to be additional insureds on the CGL policy with respect to liability arising out of Licensee’s use of the Premises. General liability coverage can be provided in the form of an endorsement to the Licensee’s insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

(b) Primary Coverage. For any claims related to this Agreement, the Licensee’s insurance coverage shall be primary insurance as respects the Licensor/City Representatives. Any insurance or self-insurance maintained by the Licensor/City Representatives, shall be excess of the Licensee’s insurance and shall not contribute with it.

(c) Contractors and Subcontractors. Licensee shall require and verify that all contractors and subcontractors maintain insurance meeting all the requirements stated herein, and Licensee shall ensure that Licensor/City Representatives are additional insureds on insurance required from contractors/subcontractors. For CGL coverage contractors and subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

(d) Notice of Cancellation. Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the City.

(e) Waiver of Subrogation. Licensee hereby grants to City a waiver of any right to subrogation which any insurer of said Licensee may acquire against the City by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation provided such endorsement is available on commercially reasonable terms, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

(f) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Licensee to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(g) Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Licensee is insured through the Association of California Water Agencies Joint Powers Insurance Authority and the City hereby approves of that insurer.

(h) Deductibles. All such insurance shall have deductibility limits of not greater than \$50,000.00 unless otherwise approved by the City.

(i) Verification of Coverage. Licensee shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by the City before exercise of the Permitted Use commences. However, failure to obtain the required documents prior to the exercise of the Permitted Use shall not waive the Licensee's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies, including endorsements, required by these specifications, at any time.

(j) Occurrence Basis Coverage. All policies shall be written on an occurrence basis unless otherwise approved by the City.

8. Indemnification. From and after the execution of this Agreement, Licensee hereby agrees to indemnify, defend, protect and hold harmless, with counsel of the Licensor's choosing, the City and any and all predecessors, successors, assigns, agents, officials, employees, members, independent contractors, affiliates, principals, officers, directors, attorneys, accountants, representatives, staff, and council members of the City collectively, the "**City Representatives**", and each of them, from and against all claims, including any claims from any third party beneficiary to this Agreement, causes of action, liabilities, losses, damages, injuries, expenses, charges, penalties, or costs, of whatsoever character, nature and kind, (including attorney's fees and costs incurred by the indemnified Party with respect to legal counsel of its choice), whether to property or to person(s), and whether by direct or derivative action, known or unknown, suspected or unsuspected, latent or patent, existing or contingent (collectively "**Losses and Liabilities**"), related directly or indirectly to, or arising out of or in any way connected with any of the activities of Licensee, its agents, employees, licensees, lessees, representatives, invitees, contractors, subcontractors or independent contractors on the Premises. This indemnification requires Licensee to indemnify the City and any and all City Representatives from and against all Losses and Liabilities, including attorneys' fees, arising out of the use or release of any Hazardous Substances on the Premises by Licensee, its agents, employees, licensees, lessees, representatives, invitees, contractors, subcontractors or independent contractors. Licensee's obligation to defend shall arise regardless of any claim or assertion that the City caused or contributed to the Losses and/or Liabilities, provided, however, that Licensee's liability under this Section 8 will be limited to the extent of any contributory negligence of Licensor.

#### Environmental Indemnity.

Licensee's Indemnity Obligations. Licensee agrees, from and after the Effective Date, to defend, indemnify, protect and hold harmless City Representatives from, regarding and against any



and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions (as defined herein), claims, losses, damages, fines, penalties, expenses, Environmental Response Costs (as defined herein) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials (as defined herein), at, on, in, beneath or from the Premises and/or the Property during the term of the Lease (sometimes herein collectively referred to as "**Contamination**"), except to the extent caused by the Licensor or its agents, contractors or employees during the Licensor's ownership of the Property prior to the commencement of the Agreement or solely caused by the Licensor or its agents, contractors or employees during the term of the Agreement. Licensee's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at Licensee's sole cost.

Release and Waiver. Licensee hereby releases and waives all rights, causes of action and claims Licensee has or may have in the future against the City Indemnitees arising out of or in connection with any Hazardous Materials (as defined herein), at, on, in, beneath or from the Premises, except to the extent caused or permitted by Licensor or its contractors, agents, or employees prior to conveyance to the Licensee or caused by Licensor during the term of the Lease.

#### Definitions.

(1) As used in this Agreement, the term "**Environmental Response Actions**" means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by Licensee.

(2) As used in this Agreement, the term "**Environmental Response Costs**" means any and all costs associated with Environmental Response Actions including, without limitation, any and all fines, penalties and damages.

(3) As used in this Agreement, the term "**Hazardous Materials**" means any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) petroleum or petroleum products; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. section 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317); (7) defined as a "hazardous substance" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq. (42 U.S.C. § 6903) or its implementing regulations; (8) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. section 9601 et seq. (42 U.S.C. § 9601); or (9) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

Materiality. Licensee acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of Licensee for the benefit of Licensor set forth in this Agreement are

a material element of the consideration to Licensor for the performance of its obligations under this Agreement, and that Licensor would not have entered this Agreement unless Licensee's obligations were as provided for herein.

9. Term, Termination and Remedies. The License shall commence as of the Effective Date of this Agreement and shall automatically terminate on **August 31, 2022**. Notwithstanding the foregoing, at any time, for any reason, the Licensor may, at its sole and absolute discretion, terminate this Agreement without cause, upon 30 days' written notice to Licensee. Further, in the event Licensor sells, -transfers, or leases the Premises during the term of this Agreement, this Agreement shall terminate upon seven (7) days written notice to Licensee. In addition, if Licensee shall be in breach of any of its obligations under this Agreement and shall fail to cure such breach within ten (10) business days of written notice from Licensor specifying the nature of any such breach, Licensor shall have the right to terminate this Agreement upon written notice to Licensee. Licensee acknowledges that this License is solely a license, and that Licensee has no rights as an owner, purchaser or tenant by virtue thereof. Upon termination of the Agreement, Licensee shall promptly vacate the Premises and comply with the provisions of Section 4 above. No termination or expiration of this License shall relieve Licensee of its obligations hereunder.

10. Inspection and Access to Premises. Licensor and any of its duly authorized representatives, employees, agents or independent contractors shall be entitled to enter the Premises, to show the Premises to potential purchasers, to inspect the Premises, to inspect Licensee's use of the Premises, and for any other purpose, at any time.

11. Assignability. This License cannot be assigned by Licensee whether voluntarily or by operation of law, and Licensee shall not permit any use of the Premises, or any part thereof during the Term of this License in violation of the provisions of this License, except with the consent of Licensor (which shall not be unreasonably withheld, conditioned or delayed), and any attempt to do so shall be null and void.

12. Cost of Enforcement. In the event it is necessary for either Party to employ an attorney or other person or commence an action to enforce or interpret any of the provisions of this License or for Licensor to remove Licensee from the Premises, the non-prevailing party agrees to pay to the prevailing party, in addition to such other relief as may be awarded by the court, City or other authority before which such suit or proceeding is commenced, all reasonable costs of enforcement in connection therewith including, but not limited to, reasonable attorneys' fees, expenses and costs of investigation.

13. Notices. All notices, consents, approvals, requests, demands and other communications provided for herein shall be in writing and shall be deemed to have been duly given upon the earlier of when personally delivered or served or twenty-four (24) hours after being deposited with FedEx or any other established overnight courier service to the intended party addressed as follows:

Licensor: Joshua Nelson  
City Manager  
15625 Mayor Dave Way  
City of Industry, CA 91744  
Tel: (626) 333-2211  
jnelson@cityofindustry.org

With a Copy to: James M. Casso, City Attorney  
Casso & Sparks, LLP  
13300 Crossroads Parkway North, Suite 410  
City of Industry, CA 91746  
Tel: (626) 269-2980  
jcasso@cassosparks.com

Licensee: Phil Dennis, Vice President  
Doty Bros. Equipment Co  
11232 E. Firestone Blvd.  
Norwalk, CA 90650  
Tel: (562) 345-1481

14. Miscellaneous. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver. The indemnifications under this Agreement, the obligations of Licensee hereunder to remove liens and Licensee's obligations hereunder with respect to vacating and repairing the Premises shall survive the expiration or termination of the License Term. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California. Any action brought concerning this Agreement shall be brought in the appropriate court for the County of Los Angeles, California. Each Party hereby irrevocably consents to the jurisdiction of said court. Licensee hereby expressly waives all provisions of law providing for a change of venue due to the fact that the City may be a party to such action, including, without limitation, the provisions of California Code of Civil Procedure Section 394. Licensee further waives and releases any right it may have to have any action concerning this Agreement transferred to Federal District Court due to any diversity of citizenship that may exist between City and Licensee. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions hereof. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Neither this instrument nor a short form memorandum or assignment hereof shall be filed or recorded in any public office without Licensor's or Licensee's prior written consent.

15. Authority. Each person executing this Agreement hereby represents and warrants (i) their authority to do so, and (ii) that such authority has been duly and validly conferred.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**“LICENSOR”**

CITY OF INDUSTRY

By: \_\_\_\_\_  
Joshua Nelson, City Manager

ATTEST:

\_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
James M. Casso, City Attorney

**“LICENSEE”**

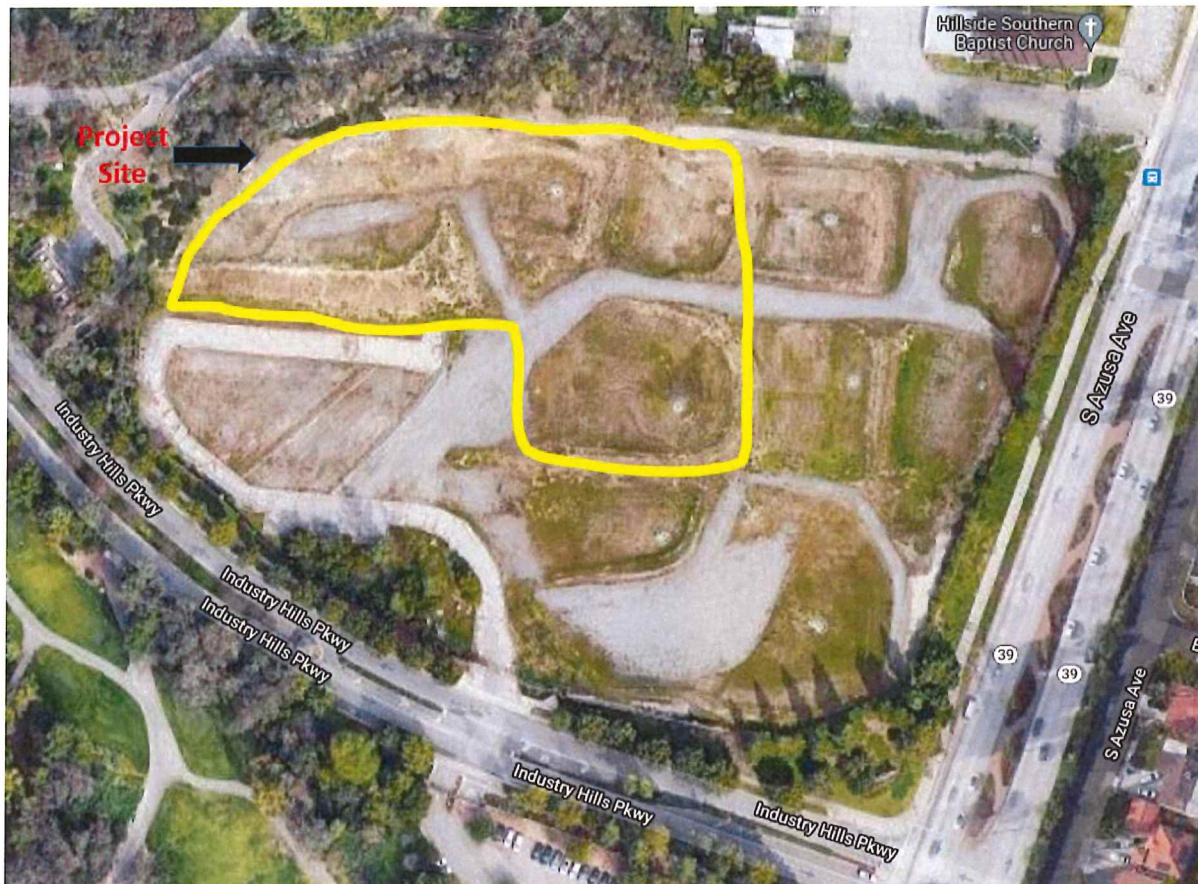
DOTY BROS. EQUIPMENT CO

By: \_\_\_\_\_  
Phil Dennis, Vice President

## EXHIBIT A

### Legal Description

Assessor Parcel Number (APN) 8262-015-901 located at One Industry Hills Parkway on the corner of Industry Hills Parkway and South Azusa Avenue, City of Industry, CA. The area identified as "Project Site" in the map below by the yellow perimeter lines identifies the area of the Premises, where the Permitted use shall occur.



*CITY COUNCIL*

ITEM NO. 5.10

Back-up Material will be Delivered Prior to Meeting



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager *JN*

**STAFF:** Mat Hudson, Engineering Manager

**DATE:** March 10, 2022

**SUBJECT:** Ratification of License Agreement with Group Delta Consultants, Inc. for access to Assessor's Parcel No. 8564-007-901, located at the northwest corner of Valley Boulevard and Temple Avenue, for temporary storage of three 55- gallon drum containers

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### **Background:**

Group Delta Consultants, Inc., ("Group Delta") contacted the City regarding the temporary use of City owned property located at the northwest corner of Valley Boulevard and Temple Avenue ("Property"). Group Delta requested the use of the Property to store three 55-gallon drum containers while it collected soil samples for the I-605/Valley Interchange Project. The drums are DOT approved containers which will be labeled with the name of the generator, a unique ID number, type of media and a preliminary description. Decontamination liquids will also be labeled as pending analysis.

### **Discussion:**

The City granted permission to use the Property, but Staff could not present the item to the Council prior to move in. At this time, staff is requesting the Council ratify the Agreement with Group Delta for its use of the Property. Group Delta completed its collection of soil samples on February 28, 2022. The storage tanks will be removed by April 30, 2022.

### **Fiscal Impact:**

The City has been charging a fee of \$150.00 a month for temporary agreements and to remain consistent, a fee of \$150.00 per month is proposed for the requested license agreement. This fee is payable to the City in advance on the first day of each month during the term of the agreement.

**Recommendation:**

- 1.) Staff recommends that the City Council approve the License Agreement with Group Delta Consultants, Inc., dated February 22, 2022.

**Exhibit:**

- A. License Agreement with Group Delta Consultants, Inc., dated February 22, 2022.
- 

JN/MH:yp



**EXHIBIT A**

License Agreement with Group Delta Consultants, Inc., dated February 22, 2022

[Attached]

*CITY COUNCIL MEETING*  
*MARCH 10, 2022*

ITEM NO. 5.10  
HAND-OUT ITEM

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“**Agreement**”), dated **February 22, 2022**, (“**Effective Date**”) is entered into by and between the City of Industry, a public body, corporate and politic (“**Licensor/City**”), and Group Delta Consultants, Inc., a California corporation (“**Licensee**”). Licensor and Licensee are individually referred to as “**Party**” and collectively referred to as the “**Parties**”.

### RECITALS

**WHEREAS**, the City is the owner of certain property located at northwest corner of Valley Boulevard and Temple Avenue, City of Industry, CA 91744, and Licensee desires to enter the portion of the property generally described as a lot, **Assessor’s Parcel No. 8564-007-901**, as set forth in Exhibit A, attached hereto and incorporated herein by reference (“**Premises**”); and

**WHEREAS**, Licensee desires to utilize the Premises to store three 55-gallon drum containers along the 605 Freeway while they collect soil samples for the project with Caltrans; and

**WHEREAS**, Licensee acknowledges that Licensee is entering onto the Premises at its sole risk and expense, and Licensor does not have any liability to Licensee under this Agreement.

**NOW, THEREFORE**, for valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### TERMS

1. License to Enter the Premises. Licensor hereby grants to Licensee a non-exclusive license (the “**License**”) granting permission to enter upon the Premises as of the Effective Date of this Agreement, and to use a portion of the Premises, as depicted in Exhibit A, for a temporary staging area for construction materials and equipment (collectively, “**Permitted Use**”); provided, that Licensee’s use of the Premises shall not interfere with the operation of business activities, if any, then being conducted on the Premises, and provided Licensee provides written notice to the Licensor at least five (5) days prior to Licensee first entering upon the Premises (said written notice shall state the purpose for the entry upon the Premises, and said entry shall not exceed the stated purpose). Prior to any initial entry pursuant to the License, Licensee shall provide to Licensor proof of insurance as set forth in Section 7 of this Agreement. Licensee shall not permit any other party, except the duly-authorized representatives, agents, employees and contractors (collectively “**Representatives**”) of Licensee to enter or use the Premises during the term of this License, without Licensor’s prior written consent, and in all events the sole reason for entry and use of the Premises shall be for the performance of Licensee’s Permitted Use.

2. Payment. Licensee shall pay Licensor, and Licensor shall accept payment of One Hundred Fifty Dollars (\$150.00) (“**License Payment**”) per month, for the use of the Premises. Payment shall be due in advance on the effective date of this Agreement. Payment shall be made to Licensor at 15625 Mayor Dave Way, City of Industry, CA 91744.

3. Permitted Use. The Permitted Use is hereby defined to include storage of three 55-gallon drum containers. Licensee shall exercise due care in the performance of the Permitted Use and such use shall be exercised in a manner which complies with all applicable laws. Licensee shall maintain

all licenses required to conduct the Permitted Use, including all licenses necessary to store and transport Hazardous Materials, as defined in this Agreement.

4. Maintenance of Premises. Prior to commencement of the Permitted Use, Licensee shall install a temporary construction fence around the staging area (unless permanent fence exists) on the Premises. Upon termination of the License, Licensee shall repair any damage done to the Premises by Licensee or its duly authorized Representatives, including environmental contamination, and shall restore the Premises to its condition as of the Effective Date of this Agreement, which shall include removal of the temporary construction fence (unless permanent fence exists).

5. Government Regulations and Other Obligations of Licensee. As a condition precedent to commencement of the Permitted Use, if required, Licensee shall obtain at its sole cost and expense all governmental permits and authorizations of whatever nature required, if any (“**Permits**”) by any and all governmental authorities having jurisdiction over the Premises for Licensee’s exercise of the Permitted Use. Licensor shall use commercially reasonable efforts to cooperate with Licensee and to support any and all applications or request for said Permits submitted by Licensee or on Licensee’s behalf. Licensee shall, in all activities undertaken pursuant to this Agreement, comply and cause its Representatives to comply with all federal, state and local laws, statutes, orders, ordinances, rules, regulations, plans, policies and decrees.

6. Liens.

6.1 Licensee shall not cause or permit to be filed, recorded or enforced against the Premises, or any part thereof, any mechanics’, material men’s, contractors’ or subcontractors’ liens arising from the Permitted Use or any claim or action affecting the title to the Premises arising from the Permitted Use, and Licensee shall pay or cause to be paid, or otherwise removed or bonded over, the full amount of all such liens or claim within fifteen (15) days of receiving written notice thereof. In addition to and not in limitation of Licensor’s other rights and remedies under this Agreement or under law, should Licensee fail within fifteen (15) business days of a written notice from Licensor to pay and discharge or bond over any lien arising out of Licensee’s use of the Premises, then a material breach under this Agreement shall be deemed to have occurred which, at Licensor’s election, shall entitle Licensor to terminate this License effective upon notice by Licensor to Licensee so stating.

6.2 If Licensee desires to contest in good faith the validity of any lien or any claim or demand that could result in a lien against the Premises or any portion thereof for which Licensor could become liable if not successfully resolved, as a condition to such contest, Licensee shall notify Licensor of Licensee’s intent to contest the lien or claim and the grounds for such contest. Notwithstanding anything to the contrary set forth herein, Licensee shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Licensor or the Premises.

7. Insurance. Prior to entering the Premises and until the termination of this Agreement, Licensee shall maintain at its sole expense insurance limits as stipulated in this section.

7.1 Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as:

(a) Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed

operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(b) Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Licensee has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(c) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(d) Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to the Licensor providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. Said policy shall include an endorsement for "materials in transit". The policy limit shall be no less than \$1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations."

7.2 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

(a) Additional Insured Status. The Licensor and City Representatives, (as defined in Section 8, below) are to be additional insureds on the CGL policy with respect to liability arising out of Licensee's use of the Premises. General liability coverage can be provided in the form of an endorsement to the Licensee's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

(b) Primary Coverage. For any claims related to this Agreement, the Licensee's insurance coverage shall be primary insurance as respects the Licensor/City Representatives. Any insurance or self-insurance maintained by the Licensor/City Representatives, shall be excess of the Licensee's insurance and shall not contribute with it.

(c) Contractors and Subcontractors. Licensee shall require and verify that all contractors and subcontractors maintain insurance meeting all the requirements stated herein, and Licensee shall ensure that Licensor/City Representatives are additional insureds on insurance required from contractors/subcontractors. For CGL coverage contractors and subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

(d) Notice of Cancellation. Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the City.

(e) Waiver of Subrogation. Licensee hereby grants to City a waiver of any right to subrogation which any insurer of said Licensee may acquire against the City by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation provided such endorsement is available on commercially reasonable terms, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

(f) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Licensee to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(g) Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Licensee is insured through the Association of California Water Agencies Joint Powers Insurance Authority and the City hereby approves of that insurer.

(h) Deductibles. All such insurance shall have deductibility limits of not greater than \$50,000.00 unless otherwise approved by the City.

(i) Verification of Coverage. Licensee shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by the City before exercise of the Permitted Use commences. However, failure to obtain the required documents prior to the exercise of the Permitted Use shall not waive the Licensee's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies, including endorsements, required by these specifications, at any time.

(j) Occurrence Basis Coverage. All policies shall be written on an occurrence basis unless otherwise approved by the City.

8. Indemnification. From and after the execution of this Agreement, Licensee hereby agrees to indemnify, defend, protect and hold harmless, with counsel of the Licensor's choosing, the City and any and all predecessors, successors, assigns, agents, officials, employees, members, independent contractors, affiliates, principals, officers, directors, attorneys, accountants, representatives, staff, and council members of the City collectively, the "**City Representatives**", and each of them, from and against all claims, including any claims from any third party beneficiary to this Agreement, causes of action, liabilities, losses, damages, injuries, expenses, charges, penalties, or costs, of whatsoever character, nature and kind, (including attorney's fees and costs incurred by the indemnified Party with respect to legal counsel of its choice), whether to property or to person(s), and whether by direct or derivative action, known or unknown, suspected or unsuspected, latent or patent, existing or contingent (collectively "**Losses and Liabilities**"), related directly or indirectly to, or arising out of or in any way connected with any of the activities of Licensee, its agents, employees, licensees, lessees, representatives, invitees, contractors, subcontractors or independent contractors on the Premises. This indemnification requires Licensee to indemnify the City and any and all City Representatives from and against all Losses and Liabilities, including attorneys' fees, arising out of the use or release of any Hazardous Substances on the Premises by Licensee, its agents, employees, licensees, lessees, representatives, invitees, contractors, subcontractors or independent contractors. Licensee's obligation to defend shall arise regardless of any claim or assertion that the City caused or contributed to the Losses and/or Liabilities, provided, however, that Licensee's liability under this Section 8 will be limited to the extent of any contributory negligence of Licensor.

Environmental Indemnity.

Licensee's Indemnity Obligations. Licensee agrees, from and after the Effective Date, to defend, indemnify, protect and hold harmless City Representatives from, regarding and against any

and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions (as defined herein), claims, losses, damages, fines, penalties, expenses, Environmental Response Costs (as defined herein) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials (as defined herein), at, on, in, beneath or from the Premises and/or the Property during the term of the Lease (sometimes herein collectively referred to as "**Contamination**"), except to the extent caused by the Licensor or its agents, contractors or employees during the Licensor's ownership of the Property prior to the commencement of the Agreement or solely caused by the Licensor or its agents, contractors or employees during the term of the Agreement. Licensee's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at Licensee's sole cost.

Release and Waiver. Licensee hereby releases and waives all rights, causes of action and claims Licensee has or may have in the future against the City Indemnitees arising out of or in connection with any Hazardous Materials (as defined herein), at, on, in, beneath or from the Premises, except to the extent caused or permitted by Licensor or its contractors, agents, or employees prior to conveyance to the Licensee or caused by Licensor during the term of the Lease.

#### Definitions.

(1) As used in this Agreement, the term "**Environmental Response Actions**" means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by Licensee.

(2) As used in this Agreement, the term "**Environmental Response Costs**" means any and all costs associated with Environmental Response Actions including, without limitation, any and all fines, penalties and damages.

(3) As used in this Agreement, the term "**Hazardous Materials**" means any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) petroleum or petroleum products; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. section 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317); (7) defined as a "hazardous substance" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq. (42 U.S.C. § 6903) or its implementing regulations; (8) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. section 9601 et seq. (42 U.S.C. § 9601); or (9) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

Materiality. Licensee acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of Licensee for the benefit of Licensor set forth in this Agreement are

a material element of the consideration to Licensor for the performance of its obligations under this Agreement, and that Licensor would not have entered this Agreement unless Licensee's obligations were as provided for herein.

9. Term, Termination and Remedies. The License shall commence as of the Effective Date of this Agreement and shall automatically terminate on **April 30, 2022**. Notwithstanding the foregoing, at any time, for any reason, the Licensor may, at its sole and absolute discretion, terminate this Agreement without cause, upon 30 days' written notice to Licensee. Further, in the event Licensor sells, -transfers, or leases the Premises during the term of this Agreement, this Agreement shall terminate upon seven (7) days written notice to Licensee. In addition, if Licensee shall be in breach of any of its obligations under this Agreement and shall fail to cure such breach within ten (10) business days of written notice from Licensor specifying the nature of any such breach, Licensor shall have the right to terminate this Agreement upon written notice to Licensee. Licensee acknowledges that this License is solely a license, and that Licensee has no rights as an owner, purchaser or tenant by virtue thereof. Upon termination of the Agreement, Licensee shall promptly vacate the Premises and comply with the provisions of Section 4 above. No termination or expiration of this License shall relieve Licensee of its obligations hereunder.

10. Inspection and Access to Premises. Licensor and any of its duly authorized representatives, employees, agents or independent contractors shall be entitled to enter the Premises, to show the Premises to potential purchasers, to inspect the Premises, to inspect Licensee's use of the Premises, and for any other purpose, at any time.

11. Assignability. This License cannot be assigned by Licensee whether voluntarily or by operation of law, and Licensee shall not permit any use of the Premises, or any part thereof during the Term of this License in violation of the provisions of this License, except with the consent of Licensor (which shall not be unreasonably withheld, conditioned or delayed), and any attempt to do so shall be null and void.

12. Cost of Enforcement. In the event it is necessary for either Party to employ an attorney or other person or commence an action to enforce or interpret any of the provisions of this License or for Licensor to remove Licensee from the Premises, the non-prevailing party agrees to pay to the prevailing party, in addition to such other relief as may be awarded by the court, City or other authority before which such suit or proceeding is commenced, all reasonable costs of enforcement in connection therewith including, but not limited to, reasonable attorneys' fees, expenses and costs of investigation.

13. Notices. All notices, consents, approvals, requests, demands and other communications provided for herein shall be in writing and shall be deemed to have been duly given upon the earlier of when personally delivered or served or twenty-four (24) hours after being deposited with FedEx or any other established overnight courier service to the intended party addressed as follows:

Licensor: Joshua Nelson  
City Manager  
15625 Mayor Dave Way  
City of Industry, CA 91744  
Tel: (626) 333-2211  
jnelson@cityofindustry.org



With a Copy to: James M. Casso, City Attorney  
Casso & Sparks, LLP  
13300 Crossroads Parkway North, Suite 410  
City of Industry, CA 91746  
Tel: (626) 269-2980  
jcasso@cassosparks.com

Licensee: Group Delta Consultants  
1035 South Milliken Avenue, Suite G  
Ontario, CA 91761  
(909) 295-5550

14. Miscellaneous. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver. The indemnifications under this Agreement, the obligations of Licensee hereunder to remove liens and Licensee's obligations hereunder with respect to vacating and repairing the Premises shall survive the expiration or termination of the License Term. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California. Any action brought concerning this Agreement shall be brought in the appropriate court for the County of Los Angeles, California. Each Party hereby irrevocably consents to the jurisdiction of said court. Licensee hereby expressly waives all provisions of law providing for a change of venue due to the fact that the City may be a party to such action, including, without limitation, the provisions of California Code of Civil Procedure Section 394. Licensee further waives and releases any right it may have to have any action concerning this Agreement transferred to Federal District Court due to any diversity of citizenship that may exist between City and Licensee. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions hereof. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Neither this instrument nor a short form memorandum or assignment hereof shall be filed or recorded in any public office without Licensor's or Licensee's prior written consent.

15. Authority. Each person executing this Agreement hereby represents and warrants (i) their authority to do so, and (ii) that such authority has been duly and validly conferred.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**“LICENSOR”**

CITY OF INDUSTRY

By: \_\_\_\_\_  
Joshua Nelson, City Manager

ATTEST:

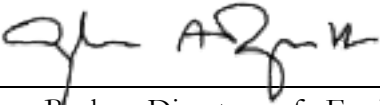
\_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
James M. Casso, City Attorney

**“LICENSEE”**

GROUP DELTA CONSULTANTS

By:  \_\_\_\_\_  
Glenn Burks, Director of Environmental  
Services

March 7, 2022

## EXHIBIT A

### Legal Description

Assessor Parcel Number (APN) 8564-007-901 located at the northwest corner of Valley Boulevard and Temple Avenue, City of Industry, CA. The area identified as “Project Site” in the map below by the yellow perimeter lines identifies the area of the Premises, where the Permitted use shall occur.



*CITY COUNCIL*

ITEM NO. 5.11

## RESOLUTION NO. CC 2022-10

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, CONTINUING THE AUTHORIZATION OF REMOTE TELECONFERENCE MEETINGS PURSUANT TO AB 361

#### RECITALS

**WHEREAS**, the City Council of the City of Industry (“City”) is committed to preserving and encouraging public access and participation in meetings of its legislative bodies; and

**WHEREAS**, all meetings of the legislative bodies of the City are open and public, as required by the Ralph M. Brown Act (Gov. Code §§54950 – 54963) (“Brown Act”), so that any member of the public may attend, participate, and observe the legislative bodies conduct their business; and

**WHEREAS**, in March 2020 as a response to the ongoing COVID-19 pandemic, Governor Newsom issued Executive Orders N-25-20 and N-29-20. These orders suspended certain elements of the Brown Act and specifically allowed for legislative bodies as defined by the Brown Act to hold their meetings entirely electronically with no physical meeting place. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which provided that the provisions in Executive Order N-29-20 suspending certain elements of the Brown Act would continue to apply through September 30, 2021; and

**WHEREAS**, on September 16, 2021 Governor Newsom signed AB 361, which added subsection (e) to Government Code §54953 of the Brown Act, and makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code §54953(b)(3), subject to the existence of certain conditions; and

**WHEREAS**, one of the conditions required is that a state of emergency has been declared by the Governor pursuant to Government Code §8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code §8558; and

**WHEREAS**, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, in March 2020, in response to the spread of COVID-19 in the State of California, the Governor Proclaimed a State of Emergency pursuant to Government Code §8625, and issued a number of executive orders aimed at containing the COVID-19 virus, and the County of Los Angeles through various Orders of the Los Angeles County Health Officer, continues to impose or recommend measures to promote social distancing; and

**WHEREAS**, the City Council has adopted proclamations declaring the existence of a local emergency within the City of Industry in response to COVID-19, which supported the requisite conditions for the legislative bodies of the City to conduct remote teleconference meetings without compliance with Government Code § 54953(b)(3); and

**WHEREAS**, Los Angeles County officials have recommended and imposed measures to promote social distancing, and requiring masks for all regardless of vaccination status in an effort to slow the continuously high levels of transmission of COVID-19 throughout the State and Los Angeles County; and

**WHEREAS**, the Centers for Disease Control and Prevention (“CDC”) continues to recommend physical distancing of at least 6 feet from others outside the household; and

**WHEREAS**, due to the rise in COVID-19 cases caused by the Omicron variant, the City Council is concerned about the health and safety of all individuals of the public who attend public meetings; and

**WHEREAS**, as a consequence of the continued state of emergency, the City Council adopted Resolution No. CC 2021-61 on October 14, 2021, Resolution No. CC 2021-68 on November 13, 2021, Resolution No. CC 2021-69 on December 13, 2021, Resolution No. CC 2022-01 on January 12, 2022, and Resolution No. CC 2022-07 on February 11, 2022, finding and determining that the City Council would continue to conduct its meetings without compliance with Government Code §54953(b)(3), as authorized by Government Code §54953(e), and that the City Council would continue to comply with the requirements to provide the public with access to all public meetings as prescribed in §54953(e)(2); and

**WHEREAS**, pursuant to the provisions of AB 361, the City Council hereby finds and determines that the findings set forth in Resolution No. CC 2022-07 remain, and that it is thereby necessary to continue to conduct its meetings without compliance with Government Code §54953(b)(3), as authorized by Government Code §54953(e).

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:**

**SECTION 1:** The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

**SECTION 2:** The City Council hereby considers the existing conditions of the state of emergency, local officials in Los Angeles County have recommended or imposed measures to promote social distancing in connection with COVID-19. Based on these facts, findings, and determinations, the City Council authorizes staff to conduct remote teleconference meetings of the City Council, under the provisions of Government Code §54953(e).

**SECTION 3:** The City Manager or his designee is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution and AB 361, including continuing to conduct open and public meetings in accordance with the Brown Act.

**SECTION 4:** This Resolution shall take effect March 13, 2022, and shall be effective until the earlier of April 12, 2022, or such time as the City Council adopts a subsequent resolution in accordance with Government Code §54953(e)(3) to extend the time during which the City Council may continue to meet by teleconference.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Industry at a regular meeting held on March 10, 2022, by the following vote:

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

\_\_\_\_\_  
Cory C. Moss, Mayor

**ATTEST:**

\_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

*CITY COUNCIL*

ITEM NO. 5.12






# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Joshua Nelson, City Manager 

**STAFF:** Sam Pedroza, Assistant City Manager

**DATE:** March 10, 2022

**SUBJECT:** Consideration of Resolution No. CC 2022-11, approving a donation to Industry Sheriff's Youth Athletic League, in the amount of \$50,000.00 for its Annual Golf Tournament

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### **Background:**

The Industry Sheriff's Youth Athletic League ("YAL") provides programs to at-risk youth in the surrounding communities since its founding. The YAL program serves over 2,500 local youth under the age of eighteen (18) years through programs such as flag football, basketball, baseball, soccer, golf, tennis, scuba, martial arts, educational field trips, the Law Enforcement Academy at La Puente High School for middle and high school students, the Law Enforcement Explorers Program and Camp C.O.U.R.A.G.E. – at no cost to participating youth or their families. Through these programs the youth receive mentoring and learn to make positive life decisions. The program recognizes the importance of early intervention and is a positive influence on thousands of children.

### **Discussion:**

The YAL contacted the City for a donation to sponsor the 29<sup>th</sup> Annual Invitational Golf Classic program which will be hosted on May 2, 2022 at Pacific Palms Resort. The donation of \$50,000.00 along with other fundraising efforts will assist the YAL in providing resources to the community.

### **Fiscal Impact:**

In the Fiscal Year 2021/2022 budget, \$456,00.00 was approved for Community Promotions and Economic Development. No appropriations are required at this time (Account No. 100-621-5601).

### **Recommendation:**

- 1) Staff recommends that the City Council adopt Resolution No. CC 2022-11, approving a donation of \$50,000.00 to the Industry Sheriff's Youth Athletic League.

**Exhibit:**

A. Resolution No. CC 2022-11

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JN/SP:yp

**EXHIBIT A**

Resolution No. CC 2022-11

[Attached]

## RESOLUTION NO. CC 2022-11

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, APPROVING A DONATION TO THE INDUSTRY SHERIFF'S YOUTH ATHLETIC LEAGUE IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00) FOR ITS ANNUAL GOLF TOURNAMENT

#### RECITALS

**WHEREAS**, the Industry Sheriff's Youth Athletic League ("YAL") provides programs to at-risk youth in the surrounding communities since its founding in 1991; and

**WHEREAS**, the YAL serves over 2,500 local youth under the age of eighteen (18) years through programs such as flag football, basketball, baseball, soccer, golf, tennis, scuba, martial arts, educational field trips, the Law Enforcement Academy at La Puente High School for middle and high school students, the Law Enforcement Explorers Program and Camp C.O.U.R.A.G.E. – at no cost to participating youth or their families; and

**WHEREAS**, the YAL requested a donation in the amount of \$50,000.00 from the City to sponsor it's 29<sup>th</sup> Annual Invitational Golf Classic held on May 2, 2022; and

**WHEREAS**, the City's donation serves a public purpose in that the YAL supports the youth in the community by providing programs that mentor the youth and teach them to make positive life decisions. These programs recognize the importance of early intervention and its positive influence on thousands of children; and

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:**

**SECTION 1.** The City Council finds that all of the facts set forth in the Recitals are true and correct and are incorporated herein by reference.

**SECTION 2.** The City's donation serves a public purpose in that the YAL supports the youth in the community by providing programs that mentor the youth and teach them to make positive life decisions. These programs recognize the importance of early intervention and its positive influence on thousands of children.

**SECTION 3.** The City Council hereby approves the donation of Fifty Thousand Dollars (\$50,000.00) to the Industry Sheriff's Youth Athletic League.

**SECTION 4.** The City Manager is hereby authorized and directed to take such other and further action consistent with this Resolution, in order to implement this Resolution on behalf of the City.

**SECTION 5.** The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

**SECTION 6.** The City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Industry at a regular meeting held on March 10, 2022, by the following vote:

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

---

Cory C. Moss, Mayor

**ATTEST:**

---

Julie Gutierrez-Robles, City Clerk

*CITY COUNCIL*


ITEM NO. 5.13



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council

**FROM:** Josh Nelson, City Manager 

**STAFF:** Bing Hyun, Assistant City Manager

**DATE:** March 10, 2022

**SUBJECT:** Consideration of Amendment No. 2 to the Professional Services Agreement with Granicus, LLC, for website maintenance and hosting, extending the term through February 13, 2023, increasing compensation by \$33,195.72, updating the rate schedule and scope of services, updating the address of the City, Consultant and City Attorney, and updating the indemnity provisions consistent with best practices for independent contractors

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### **Background:**

On February 9, 2017, the City Council approved a Professional Services Agreement with Vision Technology Solutions, LLC (“Vision”) for a redesign, implementation, migration, maintenance and support of the City of Industry, Industry Expo Center, and Homestead Museum websites. On April 27, 2017, Amendment No. 1 was approved to add the Industry Business Council’s (“IBC”) and Industry Sheriff’s Youth Activities League’s (“YAL”) websites.

On February 9, 2018, Vision was acquired by Granicus, LLC (“Granicus”) and the services were transferred to Granicus. During the last four years, Granicus has maintained and hosted all websites.

### **Discussion:**

The agreement with Granicus expired on February 14, 2022, and a one year extension is necessary to allow Staff sufficient time to explore other website hosting companies. Further, it also provides the IBC and YAL with an opportunity to look at their options to transfer the maintenance and hosting of their websites to an entity that fits within their respective budgets.

### **Fiscal Impact:**

Appropriate of \$33,195.72 to the General Fund – Administrative Services – Information Technology (account no. 100-525-5120-01).

**Recommendation:**

- 1.) Staff recommends that the City Council approve Amendment No. 2 to the Professional Services Agreement with Granicus, LLC.; and
- 2.) Appropriate \$33,195.72 to General Fund – Administrative Services – Information Technology (account no. 100-525-5120-01).

**Exhibit:**

- A. Amendment No. 2 to the Professional Services Agreement with Granicus, LLC., dated February 13, 2022
- 

JN/BH:yp



**EXHIBIT A**

Amendment No. 2 to the Professional Services Agreement with Granicus, LLC.,  
dated February 13, 2022

[Attached]

**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT WITH  
GRANICUS, LLC.**

This Amendment No. 2 to the Professional Services Agreement (“Agreement”), is made and entered into this 13th day of February 2022 (“Effective Date”), by and between the City of Industry, a California municipal corporation (“City”) and Granicus, LLC, a Minnesota limited liability company (“Consultant”). The City and Consultant are hereinafter collectively referred to as the “Parties”.

**RECITALS**

**WHEREAS**, on or about February 9, 2017, the Agreement was entered into and executed between the City and Vision Technology Solutions, LLC (“Vision”) to provide website development services for the City, Homestead, and Expo Center; and

**WHEREAS**, on or about April 27, 2017, Amendment No. 1 was entered into for additional website development services to include the Industry Business Council and Industry Sheriff’s Youth Activities League; and

**WHEREAS**, on or about February 9, 2018, Vision was purchased by Consultant. Given the dissolution of Vision, the Parties transferred all obligations previously held by Vision to Consultant; and

**WHEREAS**, the Parties desire to amend the Agreement to extend the term to February 14, 2023, increase the compensation by \$33,195.72, update the rate schedule, scope of services, the addresses of the City, Consultant and City Attorney, and the indemnity provisions; and

**WHEREAS**, for the reasons set forth herein, the City and Consultant desire to enter into this Amendment No. 2, as set forth below.

**AMENDMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement, and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

Commencing February 9, 2018, Vision Technology Solutions, LLC is no longer a party to this Agreement. All obligations and rights under the Agreement which previously designated Vision Technology Solutions, LLC as the responsible party, are assigned to Granicus, LLC.

**Section 1. TERM**

The first sentence of Section 1 is hereby amended to read in its entirety as follows:

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until February 14, 2023, unless sooner terminated pursuant to the

provisions of this Agreement.

**Section 4. PAYMENT**

The second sentence of Section 4(a) is hereby amended to read in its entirety as follows:

This amount shall not exceed Two Hundred Fifty-Four Thousand Three Hundred Six Dollars and Seventy-Two Cents (\$254,306.72) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement.

**Section 9. INDEPENDENT CONSULTANT**

Section 9(c) is hereby added to read in its entirety as follows:

(c) Consultant shall indemnify, defend and hold harmless, the City, its elected officials, officers, employees and agents, from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including contributions to any retirement and/or pension plan, legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, Consultant’s or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant, service as an independent contractor. The provisions of this Section 10(c) are effective as of January 1, 2020. The indemnity provisions set forth in this Section 10(c) shall survive the termination of this Agreement, and are in addition to any other rights or remedies the City may have under the law.

**Section 15. NOTICES**

To City: City of Industry  
15625 Mayor Dave Way  
City of Industry, CA 91744  
Attention: City Manager

With a Copy To: Casso & Sparks, LLP  
13300 Crossroads Parkway North, Suite 410  
City of Industry, CA 91746  
James M. Casso, City Attorney

To Consultant: Granicus, LLC  
408 Saint Peter Street, Suite 600  
Saint Paul, MN 55102  
Attention: Jessica Yang

**EXHIBIT A. SCOPE OF SERVICES**

Exhibit A is hereby rescinded in its entirety, and replaced with a revised Scope of Services, attached hereto as Attachment 1, and incorporated herein by reference.

**EXHIBIT B. RATE SCHEDULE**

Exhibit B is hereby rescinded in its entirety, and replaced with a revised Rate Schedule, attached hereto as Attachment 2, and incorporated herein by reference.

IN WITNESS WHEREOF, the Parties here executed this Amendment No. 2 to the Agreement as of the Effective Date.

**“CITY”**  
City of Industry

**“CONSULTANT”**  
GRANICUS, LLC.

By: \_\_\_\_\_  
Joshua Nelson, City Manager

By: \_\_\_\_\_  
Jessica Yang,

**Attest:**

By: \_\_\_\_\_  
Julie Gutierrez-Robles, City Clerk

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
James M. Casso, City Attorney

ATTACHMENT NO. 1

EXHIBIT A

SCOPE OF SERVICES

Consultant shall provide the following services:

<p>govAccess Plus Edition</p>	<p>govAccess Maintenance, Hosting, and Licensing plan is designed to equip the City with the technology, expertise and training to keep the City's website relevant and effective over time.</p> <p>Services include the following:</p> <ul style="list-style-type: none"> <li>• Ongoing software updates</li> <li>• Unlimited technical support (6:00 AM - 6:00 PM PT, Monday - Friday)</li> <li>• Access to training webinars and on-demand video library</li> <li>• Access to best practice webinars and resources</li> <li>• Annual health check with research-based recommendations for website optimization -DDoS mitigation</li> <li>• Disaster recovery with 90-minute failover (RTO) and 15-minute data replication (RPO)</li> </ul>
<p>govAccess Independent Subsite Maint &amp; Hosting</p>	<p>govAccess Maintenance, Hosting and Licensing includes the following for the City's Independent Subsite:</p> <ul style="list-style-type: none"> <li>• Monthly software updates</li> <li>• Unlimited technical support (6:00 AM - 6:00 PM PT, Monday - Friday)</li> <li>• Access to training webinars and on-demand video library</li> <li>• Access to best practice webinars and resources</li> <li>• Annual health check with research-based recommendations for website optimization</li> <li>• DDoS mitigation -Disaster recovery with 90-minute failover (RTO) and 15-minute data replication (RPO)</li> </ul>
<p>govAccess - Maintenance, Hosting, &amp; Licensing Fee - Pulse</p>	<p>Pulse is a community engagement platform integrated with the govAccess CMS that will enable the City to gauge the public's opinion on important issues and turn their feedback into actionable results.</p>

ATTACHMENT NO. 2

EXHIBIT B

RATE SCHEDULE

**Renewing Subscription Fees**

<b>Solution</b>	<b>Period of Performance</b>	<b>Billing Frequency</b>	<b>Quantity</b>	<b>Annual</b>
govAccess Independent Subsite Maint & Hosting – EXPO Center	2/15/2022 to 2/14/2023	Annual	1 Each	\$1,857.99
govAccess Independent Subsite Maint & Hosting – Homestead	2/15/2022 to 2/14/2023	Annual	1 Each	\$3,096.64
govAccess Plus Edition - City	2/15/2022 to 2/14/2023	Annual	1 Each	\$11,024.06
govAccess - Maintenance, Hosting, & Licensing Fee - Pulse	2/15/2022 to 2/14/2023	Annual	1 Each	\$4,335.31
govAccess Specialty Subsite Maint & Hosting - YAL	4/15/2022 to 2/14/2023	Annual	1 Each	\$1,857.98
govAccess Plus Edition – IBC	4/15/2022 to 2/14/2023	Annual	1 Each	\$11,023.74
<b>SUBTOTAL:</b>				<b>\$33,195.72</b>


*CITY COUNCIL*

ITEM NO. 6.1



# CITY OF INDUSTRY

## MEMORANDUM

**TO:** Honorable Mayor Moss and Members of the City Council  
**FROM:** Joshua Nelson, City Manager   
**STAFF:** Bing Hyun, Assistant City Manager  
**DATE:** March 10, 2022  
**SUBJECT:** Consideration of Appointment for One (1) Vacant Seat on the Civic-Recreational-Industrial Authority (CRIA)

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### **Background:**

The Civic-Recreational-Industrial Authority (“CRIA”) is served by a total of five (5) Board of Directors, including four (4) Directors appointed by the City Council and one (1) Directors appointed by the City of La Puente. Each director serves a four (4) year term.

At this time, one (1) seat on the CRIA Board is vacant. The City Clerk issued a 30-day notice of vacancy on January 21, 2022, inviting applications for the open seat. An application was submitted by the following person:

- Ronald McPeak

### **Recommendation:**

Discuss and make appointment to CRIA and /or provide additional direction to staff.

### **Exhibit:**

- A. Application for City Commission or Authority
- 

JN/BH:yp



**EXHIBIT A**

Application for City Commission or Authority

[Attached]



# CITY OF INDUSTRY

## CITY OF INDUSTRY

### APPLICATION FOR CITY COMMISSION OR AUTHORITY

To: The Honorable Mayor and Members of the City Council

Please accept this correspondence as my formal interest in serving on the City of Industry CIVIC - RECREATIONAL - INDUSTRIAL AUTHORITY.

I very much appreciate your consideration.

Sincerely,

RONALD MCPHAK

Print your name

[REDACTED]  
Address

[REDACTED]  
Phone Number

[REDACTED]  
Email Address

Roy McPeak  
Signature

2/16/2022  
Date

