

CITY OF ARCADIA

City Council Regular Meeting Agenda



Tuesday, August 15, 2023, 6:00 p.m.

Location: City Council Conference Room, 240 W. Huntington Drive, Arcadia

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the City Clerk at (626) 574-5455. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

根据《美国残障人法案》，需要调整或提供便利设施才能参加会议的残障人士（包括辅助器材或服务）可与市书记官办公室联系（电话：(626) 574-5455）。请在会前 48 小时通知市书记官办公室，以便作出合理安排，确保顺利参加会议。

Pursuant to the City of Arcadia's Language Access Services Policy, limited-English proficient speakers who require translation services in order to participate in a meeting may request the use of a volunteer or professional translator by contacting the City Clerk's Office at (626) 574-5455 at least 72 hours prior to the meeting.

根据阿凯迪亚市的语言便利服务政策，英语能力有限并需要翻译服务才能参加会议的人可与市书记官办公室联系（电话：(626) 574-5455），请求提供志愿或专业翻译服务，请至少在会前 72 小时提出请求。

How to Submit Public Comment:

Members of the Public who wish to submit public comment may do so using one of the following methods. Public comment is limited to the time and words allotted.

1. **In-Person:** Complete a Speaker Card, indicating the agenda item number and submit it to the City Clerk prior to the meeting, or simply come to the podium when the Mayor asks for those who wish to speak. Speakers shall be limited to five (5) minutes per person. At the Mayor's discretion, the time limit may be shortened to allow all speakers to address the City Council.

Electronic submission of Public Comment is also available via the City's website or by email as noted below. Public Comment submitted electronically will not be read into the record at the posted meeting time but are forwarded to the City Council prior to the meeting for consideration.

1. **Website:** Please submit your comments using our online public comment form at ArcadiaCA.gov/comment. Your comments must be received at least 30 minutes prior to the posted meeting time.
2. **Email:** Please submit your comments via email to CityClerk@ArcadiaCA.gov. Your comments must be received at least 30 minutes prior to the posted meeting time.

如何提交公众评论意见：

公众成员可以使用以下任何一种方法提交公众评论意见。请在时间和字数的限制范围内提交公众评论意见。

1. **亲自出席：**填写一张发言人卡片，注明议程项目编号，然后在会议开始前提交给市书记官，或者在市长询问公众发言时，直接到讲台上发言。每位发言人的发言时间不得超过五（5）分钟。市长可自行决定缩短发言限制时间，以便允许所有发言人向市议会表达自己的意见。

亦可按照以下方法在本市网站上或通过电子邮件以电子方式提交公众评论意见。以电子方式提交的公众评论意见不会在公布的会议期间读入记录，但会在会议开始前转交给市议会，供市议会考虑。

1. **网站：**请使用以下网站中刊载的在线公众评论意见表提交您的评论意见：ArcadiaCA.gov/comment。必须在公布的会议时间前至少提前 30 分钟提交评论意见。
2. **电子邮件：**请将您的评论意见通过电子邮件发送至：CityClerk@ArcadiaCA.gov。必须在公布的会议时间前至少提前 30 分钟提交评论意见。

CALL TO ORDER

ROLL CALL OF CITY COUNCIL MEMBERS

Paul P. Cheng, Mayor
April A. Verlato, Mayor Pro Tem
Michael Cao, Council Member
Sharon Kwan, Council Member
Eileen Wang, Council Member

PUBLIC COMMENTS (5-minute time limit each speaker)

Any person wishing to speak before the City Council is asked to complete a Speaker Card and provide it to the City Clerk prior to the start of the meeting. Each speaker is limited to five (5) minutes per person, unless waived by the City Council. Under the Brown Act, the City Council is prohibited from discussing or taking action on any item not listed on the posted agenda.

CLOSED SESSION

- a. Pursuant to Government Code section 54956.9(d)(4) to confer with legal counsel regarding potential litigation - two (2) cases.
- b. Pursuant to Government Code Section 54956.9(d)(1) to confer with legal counsel regarding the matter of Arcadians for Environmental Preservation v. City of Arcadia, Los Angeles County Superior Court (Case No. 20STCP02902).

Regular Meeting City Council Chambers, 7:00 p.m.

1. CALL TO ORDER

2. INVOCATION

Reverend Jolene Cadenbach, Arcadia Congregational Church

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF CITY COUNCIL MEMBERS

Paul P. Cheng, Mayor
April A. Verlato, Mayor Pro Tem
Michael Cao, Council Member
Sharon Kwan, Council Member
Eileen Wang, Council Member

5. REPORT FROM CITY ATTORNEY REGARDING CLOSED/STUDY SESSION ITEMS

6. SUPPLEMENTAL INFORMATION FROM CITY MANAGER REGARDING AGENDA ITEMS

7. PRESENTATIONS

- a. Presentation of appreciation to firefighter/paramedics Beth Fournier and Nik Pheng from Monterey Park Fire Chief Matt Hallock for Arcadia Fire Department's response and assistance to the January mass shooting.
- b. Mayor's Certificate to Arcadia resident and photographer Jamie Nicholson for his support of the Arcadia Fire Department.
- c. Mayor's Certificate to the Arcadia Chinese Association for organizing Law Day 2023.
- d. Presentation of the WaterSmart Hero Awards.
- e. Presentation by Waste Management to introduce staff to the City Council and Community.
- f. Presentation by Arcadia Performing Arts Foundation President and CEO Gary Kovacic.

8. PUBLIC COMMENTS (5-minute time limit each speaker)

Any person wishing to speak before the City Council is asked to complete a Speaker Card and provide it to the City Clerk prior to the start of the meeting. Each speaker is limited to five (5) minutes per person, unless waived by the City Council. Under the Brown Act, the City Council is prohibited from discussing or taking action on any item not listed on the posted agenda.

9. REPORTS FROM MAYOR, CITY COUNCIL AND CITY CLERK (*including reports from the City Council related to meetings attended at City expense [AB 1234]*).

10. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless a member of the City Council, staff, or the public requests that a specific item be removed from the Consent Calendar for separate discussion and action.

- a. Regular Meeting Minutes of July 18, 2023.
CEQA: Not a Project
Recommended Action: Approve

- b. Resolution No. 7519 accepting a dedication for street and sidewalk purposes and approving Final Tract Map No. 83124 for a six-unit multi-family residential condominium subdivision at 414 South Second Avenue.
CEQA: Exempt
Recommended Action: Adopt
- c. Resolution No. 7520 determining the amount of revenue to be raised from property taxes for Fiscal Year 2023-24 to pay for the debt service on the 2021 General Obligation Refunding Bonds (Series Bond Measure A and Series Police Station Project).
CEQA: Not a Project
Recommended Action: Adopt
- d. Resolution No. 7521 amending the Fiscal Year 2023-24 Operating Budget, authorizing a supplemental budget appropriation for cloud hosting fees in the amount of \$160,000, offset by a reduction in the General Fund Reserve; and approving a Software Service Agreement with Oracle America and Can/Am Technologies for the implementation of a new financial Enterprise Resource Planning and cashiering software system in the amount of \$450,000.
CEQA: Not a Project
Recommended Action: Adopt and Approve
- e. Designate Council Member Michael Cao as the Voting Delegate and Council Member Eileen Wang as the Alternate Voting Delegate for the 2023 League of California Cities Annual Conference.
CEQA: Not a Project
Recommended Action: Approve
- f. City Council Compensation Adjustment pursuant to Arcadia City Charter Section 402.
CEQA: Not a Project
Recommended Action: Receive and File
- g. Contract with Gentry Brothers, Inc., for the Downtown Alley Improvements Project and City broadband infrastructure in the amount of \$1,938,334, plus a 10% contingency.
CEQA: Exempt
Recommended Action: Approve
- h. Purchase of ammunition from San Diego Police Equipment Co., Inc. in an amount not to exceed \$100,115.
CEQA: Not a Project
Recommended Action: Waive the Formal Bid Process and Approve
- i. Purchase Order with All Star Fire Equipment for the purchase of structural firefighting coats and pants in the amount of \$44,600 for Fiscal year 2023-24; and authorize the City Manager to approve the subsequent annual renewals.
CEQA: Not a Project
Recommended Action: Approve
- j. Joint use Dana Gym Maintenance and Operation expenses, not to exceed \$50,400.
CEQA: Not a Project
Recommended Action: Approve

- k. Reject the one proposal received for design-build services for the Library Family Restroom Project and direct staff to solicit additional proposals.
CEQA: Exempt
Recommended Action: Approve

11. ADJOURNMENT

The City Council will adjourn this meeting to September 5, 2023, 6:00 p.m. in the City Council Conference Room.

Welcome to the Arcadia City Council Meeting!

The City Council encourages public participation, and invites you to share your views on City business.

MEETINGS: Regular Meetings of the City Council are held on the first and third Tuesday of each month at 7:00 p.m. in City Council Chambers. A full City Council agenda packet with all backup information is available at City Hall, the Arcadia Library, and on the City's website at www.ArcadiaCA.gov. Copies of individual Agenda Reports are available via email upon request (CityClerk@ArcadiaCa.gov). Documents distributed to a majority of the City Council after the posting of this agenda will be available for review at the Office of the City Clerk, 240 W. Huntington Drive, Arcadia, California. Live broadcasts and replays of the City Council Meetings are on cable television. Your attendance at this public meeting may result in the recording and broadcast of your image and/or voice as previously described.

PUBLIC PARTICIPATION: Your participation is welcomed and invited at all City Council meetings. Time is reserved at each regular meeting for those in the audience who wish to address the City Council. The City requests that persons addressing the City Council refrain from making personal, slanderous, profane, or disruptive remarks. Where possible, please submit a **Speaker Card** to the City Clerk prior to your comments, or simply come to the podium when the Mayor asks for those who wish to speak, and state your name and address (optional) for the record. Please provide the City Clerk with a copy of any written materials used in your address to the City Council as well as 10 copies of any printed materials you would like distributed to the City Council. The use of City equipment for presentations is not permitted.

MATTERS NOT ON THE AGENDA should be presented during the time designated as "PUBLIC COMMENTS." In general, each speaker will be given five (5) minutes to address the City Council; however, the Mayor, at his/her discretion, may shorten the speaking time limit to allow all speakers time to address the City Council. **By State law, the City Council may not discuss or vote on items not on the agenda. The matter will automatically be referred to staff for appropriate action or response or will be placed on the agenda of a future meeting.**

MATTERS ON THE AGENDA should be addressed when the City Council considers that item. Please indicate the Agenda Item Numbers(s) on the **Speaker Card**. Your name will be called at the appropriate time and you may proceed with your presentation within the five (5) minute time frame. The Mayor, at his/her discretion, may shorten the speaking time limit to allow all speakers to address the City Council.

PUBLIC HEARINGS AND APPEALS are items scheduled for which public input is either required or desired. Separate and apart from the applicant (who may speak longer in the discretion of the City Council), speakers shall be limited to five (5) minutes per person. The Mayor, at his/her discretion, may shorten the speaking time limit to allow all speakers to address the City Council. The applicant may additionally submit rebuttal comments.

AGENDA ITEMS: The Agenda contains the regular order of business of the City Council. Items on the Agenda have generally been reviewed and investigated by the City Staff in advance of the meeting so that the City Council can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine by the City Council and will be acted upon by one motion. There will be no separate discussion on these items unless a member of the City Council, Staff, or the public so requests. In this event, the item will be removed from the Consent Calendar and considered and acted on separately.

DECORUM: While members of the public are free to level criticism of City policies and the action(s) or proposed action(s) of the City Council or its members, members of the public may not engage in behavior that is disruptive to the orderly conduct of the proceedings, including but not limited to, conduct that prevents other members of the audience from being heard when it is their opportunity to speak or which prevents members of the audience from hearing or seeing the proceedings. Members of the public may not threaten any person with physical harm or act in a manner that may reasonably be interpreted as an imminent threat of physical harm. All persons attending the meeting are expected to adhere to the City's policy barring harassment based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, sexual orientation, or age. The Chief of Police, or such member or members of the Police Department, shall serve as the Sergeant-at-Arms of the City Council meeting. The Sergeant-at-Arms shall carry out all orders and instructions given by the presiding official for the purpose of maintaining order and decorum at the meeting. Any person who violates the order and decorum of the meeting may be placed under arrest and such person may be prosecuted under the provisions of Penal Code Section 403 or applicable Arcadia Municipal Code section.

欢迎参加阿凯迪亚市议会会议！

市议会鼓励公众参与，并邀请您分享对城市管理的看法。

会议：市议会定期会议于每个月第一个和第三个星期二下午七时在市议会会议厅举行。在市政厅、阿凯迪亚图书馆和市政府网站（www.ArcadiaCa.gov）可以找到包含所有相关信息的完整市议会议程。单独的议程报告可应请求通过电子邮件索取（CityClerk@ArcadiaCa.gov）。至于在发布该议程后向市议会多数成员分发的文件，公众可在阿凯迪亚市书记官办公室查阅，地址：240 W. Huntington Drive, Arcadia, California。市议会会议实况将通过有线电视进行现场直播和回放。如在以往的通知中所提示，如果您参加这次公开会议，您的图像和/或声音可能被录下并播出。

公众参与：市议会欢迎并邀请您参加市议会的所有会议。在每次定期会议上都为那些希望在会上发言的市民留出时间。市政府要求在市议会发言的人杜绝个人攻击、诽谤、亵渎或破坏性言论。如有可能，请在发表意见之前向市书记官提交一张**发言卡**，亦可在市长宣布自由发言时直接上台发言，并说出您的姓名和地址（如果您愿意），以便制作会议记录。请向市书记官提供一份您在发言中使用的任何书面材料，以及 10 份您希望分发给市议会的任何印刷材料。不允许把市政府设备用于准备发言内容。

议程之外的事项应当在指定的“公众评议”时间提出。在一般情况下，每位发言者将有五（5）分钟时间向市议会陈述意见，但市长可酌情缩短发言时限，以便让所有希望发言的人都有机会发言。**根据州法，市议会不得讨论或表决未列入议程的事项。此类事项将自动转给工作人员采取适当行动或作出回应，或将其列入未来会议的议程。**

列入议程的事项应当在市议会审议该事项时讨论。请在**发言卡**上标明事项的议程编号。在适当的时间会叫到您的名字，您可以在五（5）分钟时限内发言。市长可酌情缩短发言时限，以便让所有希望发言的人都有机会发言。

公开听证和上诉是为需要或希望征求公众意见的事项安排的日程。除申请人外（市议会可酌情决定延长申请人的发言时间），每位发言人的发言不得超过五（5）分钟。市长可酌情缩短发言时限，以便让所有希望发言的人都有机会发言。申请人还可以另外提交反驳意见。

议程事项：议程包含市议会的例行议题。一般而言，由市政府工作人员在会议前对议程中的事项进行审查和调查，以便市议会在作出决定之前能够充分了解情况。

同意日历：在同意日历上列出的事项被市议会视为例行公事，并将通过一项动议采取行动。除非市议员、工作人员或公众提出请求，否则不会对这些事项进行单独讨论。如果有人提出请求，该事项将从同意日历中删除，单独进行审议和采取行动。

行为规范：尽管市民可对市政府的政策和市议会或其成员的行动或拟议行动自由地提出批评，但不得出现干扰会议正常秩序的行为，包括但不限于在别人的发言时间内阻止别人发言，或妨碍公众听到发言内容或看到议程进展状况。市民亦不得威胁进行身体伤害或以可能被合理理解为作出身体伤害紧迫威胁的方式行事。所有出席会议的人都必须遵守市政府的反骚扰政策，禁止基于个人种族、宗教信仰、肤色、原国籍、祖籍、身体残障、疾病、婚姻状况、性别、性取向或年龄骚扰他人。警察局长或警察局其他成员将担任维持市议会会议秩序的保安官。保安官将执行会议主持人的一切命令和指示，以维持会议秩序和行为规范。对任何违反会议秩序和行为规范的人可执行拘捕，并可能根据《刑法典》第 403 条或《阿凯迪亚市政法典》相关条款提出起诉。

**ARCADIA CITY COUNCIL
REGULAR MEETING MINUTES
TUESDAY, JULY 18, 2023**

CALL TO ORDER - Mayor Cheng called the Study Session to order at 4:35 p.m.

ROLL CALL OF CITY COUNCIL MEMBERS

PRESENT: Cao, Kwan, Wang, and Cheng
ABSENT: Verlato

Mayor Pro Tem Verlato arrived at 4:37 p.m.

PUBLIC COMMENTS – No one appeared.

CLOSED SESSION

- a. Pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Jesus Anguiano and Josefina Anguiano v. City of Arcadia, Arcadia Public Works Services Department; and Does 1-30, inclusive (Case No. 22STCV05427)
- b. Pursuant to Government Code section 54956.9(d)(4) to confer with legal counsel regarding potential litigation - two (2) cases.
- c. Pursuant to Government Code Section 54956.9(d)(1) to confer with legal counsel regarding the matter of Arcadians for Environmental Preservation v. City of Arcadia, Los Angeles County Superior Court (Case No. 20STCP02902).
- d. Pursuant to Government Code Section 54957, Public Employee Performance Evaluation: City Attorney

No reportable action was taken.

The Closed Session ended at 6:05 p.m.

The City Council reconvened into Open Session at 6:07 p.m.

OPEN SESSION

- a. Report, discussion, and direction regarding The Shops at Santa Anita at 400 S. Baldwin Avenue.

Alan Chang, Owner Representative, Donna Guerrero, Senior General Manager, and Brynne Muñoz, Marketing Manager, spoke on behalf of the new ownership group of The Shops at Santa Anita, and provided an update on the mall since it was sold by Westfield in 2022. Discussion ensued and the ownership group responded to various questions, comments, and suggestions about The Shops at Santa Anita.

No action was requested or taken.

The Open Session ended at 6:41 p.m.

**Regular Meeting
City Council Chambers, 7:00 p.m.**

1. **CALL TO ORDER** – Mayor Cheng called the Regular Meeting to order at 7:00 p.m.
2. **INVOCATION** – City Clerk Glasco
3. **PLEDGE OF ALLEGIANCE** – Rabbi Sholom Stiefel, Chabad of Arcadia
4. **ROLL CALL OF CITY COUNCIL MEMBERS**

PRESENT: Cao, Kwan, Wang, Verlato, and Cheng
ABSENT: None

5. **REPORT FROM CITY ATTORNEY REGARDING CLOSED/STUDY SESSION ITEMS**

City Attorney Maurer reported that prior to the Regular Meeting the City Council met in Closed Session to discuss the four items listed on the posted agenda; and stated that no reportable action was taken.

City Attorney Maurer further reported that the City Council met in an Open Session to receive an update from the new owners of The Shops at Santa Anita; and indicated that there was no action requested or taken.

6. **SUPPLEMENTAL INFORMATION FROM CITY MANAGER REGARDING AGENDA ITEMS**

City Manager Lazzaretto reported that representatives from Southern California Gas Company were in attendance to provide an update regarding an ongoing incident that interrupted gas service for a few hundred Arcadia residents; he requested that Mayor Cheng allow their Public Comment before proceeding with the next agenda items.

Mayor Cheng moved Public Comment from Southern California Gas Company to this portion of the meeting.

Helen Romero Shaw and Juan Gonzales, representatives from SoCal Gas Company, appeared and provided an update regarding the incident that occurred on Friday, July 14 that interrupted gas service to parts of Sierra Madre and Arcadia; they stated that SoCal Gas Company is working quickly and diligently to address the issues affecting Arcadia residents; that safety is their number one concern; and urged residents to continue to be patient while proper modifications are made to their gas meters.

In response to Mayor Pro Tem Verlato, Mr. Gonzales stated that residents may file a claim with SoCal Gas Company to recover any costs incurred by this incident; he provided the location where crews are currently working; he stated that crews are working their way to the Colorado and Santa Anita area; and thanked residents for their continued patience.

7. **PRESENTATIONS**

- a. Presentation of Proclamation to the Jewish Federation of the Greater San Gabriel and Pomona Valleys denouncing antisemitism, hatred, and prejudice.

- b. Presentation to outgoing Board and Commission Members.
- c. Administer the Oath of Office to newly appointed Board and Commission Members.
- d. Presentation to Robert Garrett and volunteer attorneys that supported Law Day 2023.
- e. Presentation on the 2023 Downtown Arcadia Festival by Donna Choi, DAIA Executive Director; Peter Amundson, Patriotic Festival Chair; and MJ Finstrom, DAIA Marketing Director.

8. PUBLIC HEARING

- a. Confirm the County of Los Angeles Department of Agricultural Commissioner/Weights and Measures Weed Abatement Charges and order the County Auditor to enter the amounts of the assessment against the parcels of land as they appear on the current assessment roll.

CEQA: Not a Project

Recommended Action: Approve

City Manager Lazzaretto presented the Staff Report.

Mayor Cheng opened the Public Hearing, and no one appeared.

Mayor Cheng closed the Public Hearing.

It was moved by Council Member Cao, seconded by Mayor Pro Tem Verlato, and carried on a roll call vote to confirm the County of Los Angeles Department of Agricultural Commissioner/Weights and Measures Weed Abatement Charges and order the County Auditor to enter the amounts of the assessment against the parcels of land as they appear on the current assessment roll.

AYES: Cao, Verlato, Wang, Kwan, and Cheng

NOES: None

ABSENT: None

9. PUBLIC COMMENTS

Gerri Lyn, an Arcadia resident, appeared and expressed her concerns regarding possible home birthing centers near her residence; she stated that her home should be zoned as a single-family residence; and requested that City staff respond to her emails.

10. REPORTS FROM MAYOR, CITY COUNCIL AND CITY CLERK (including reports from the City Council related to meetings attended at City expense [AB 1234]).

City Clerk Glasco announced that he is pleased to be attending the meeting in person again; he provided an update on his ongoing health issues; he thanked Mayor Cheng for his kind words; and noted that he hopes to complete his term through November 2024.

Council Member Cao announced that he attended the 2023 Asian Youth Center Board Installation Dinner; the 9th Annual ThanksUSA event; the LA County Arboretum's 75th Anniversary Annual Members Meeting; Law Day; the Joyful Peace Concert hosted by the Church of Jesus Christ of Latter-Day Saints; Arcadia Boy Scouts Troop 104 - 75th Anniversary celebration; the Health Committee meeting; the Planning Commission meeting; a City Council Special Meeting regarding

a proposed Moon Festival; the LA County Arboretum Visitor Plaza Opening ceremony; “Concerts and Movies in the Park”; the Downtown Arcadia Patriotic Festival and Fireworks Show; City of Sierra Madre 4th of July Parade; the Clean Power Alliance meeting; the City of Pasadena Affordable Housing Bus Tour; he indicated that Arcadia does not have similar resources as Pasadena to address affordable housing and that Arcadia should support its local community. He further announced that he attended the 100th Birthday celebration of Edward Lopez, an Arcadia resident and U.S. Veteran; he commented on the rise of hate crime in California; he reminded everyone that more needs to be done to combat hate crimes; and stated that the City of Arcadia does not tolerate hate crimes.

Council Member Kwan announced that she attended the Foothill Gold Line Track Completion Ceremony; Law Day; the Badge Pinning and Swearing-in ceremony for Arcadia Lieutenant James Trabbie; a City Council Special Meeting regarding a proposed Moon Festival; the LA County Arboretum Visitor Plaza Opening Ceremony; the Downtown Arcadia Patriotic Festival and Fireworks Show; City of Sierra Madre 4th of July Parade; USC Arcadia Hospital Foundation meeting; the City of Pasadena Affordable Housing Bus Tour; she commented on the tour; and indicated that a solution is needed to help the unhoused community in Arcadia.

Council Member Wang announced that she attended the USC Arcadia Hospital Foundation meeting; the Overseas Students Alliance Annual Appreciation event; the 2023 Asian Youth Center Board Installation event; the 9th Annual ThanksUSA event; the LA County Arboretum’s 75th Anniversary Annual Members Meeting; Law Day; the Joyful Peace Concert; Arcadia Boy Scouts Troop 104 - 75th Anniversary celebration; that she participated in an Arcadia Police Ride-Along; that she attended the Health Committee meeting; a City Council Special Meeting regarding a proposed Moon Festival; the LA County Arboretum Visitor Plaza Opening Ceremony; the Downtown Arcadia Patriotic Festival and Fireworks Show; the City of Sierra Madre 4th of July Parade; the Arcadia Rotary’ Installation of its 97th President; she noted that lunch was delivered to the Arcadia Fire Department and thanked them for all they do. She further announced that she attended the Arcadia Chamber of Commerce meeting; and the 100th Birthday Celebration of Edward Lopez, an Arcadia resident and U.S. Veteran, among other events outside the City of Arcadia.

Mayor Pro Tem Verlato congratulated the new and returning Board and Commission Members; she announced that she attended the Downtown Arcadia Patriotic Festival and Fireworks Show; the City of Sierra Madre 4th of July Parade; a City Council Special Meeting regarding a proposed Moon Festival; she thanked Council Members Cao, Kwan, and Wang for attending the City of Pasadena Affordable Housing Bus Tour; she spoke about the options and benefits of affordable housing; she announced that August 3 is Arcadia’s 120th Birthday Celebration and National Night Out; and encouraged everyone to attend.

Mayor Cheng thanked the City Council for working together and representing the City at various events; he shared photographs of three veterans that celebrated their birthdays in the month of July; and indicated that Joyce Platt is looking for Arcadia veterans for purposes of preserving and archiving the City’s history.

11. CONSENT CALENDAR

- a. Regular Meeting Minutes of June 20, 2023, and Special Meeting Minutes of June 28, 2023.
CEQA: Not a Project
Recommended Action: Approve

- b. Resolution No. 7517 amending the Fiscal Year 2023-24 Operating Budget authorizing a supplemental budget appropriation for the 2023 Mid-Autumn Moon Festival in an amount not to exceed \$25,000, offset by a reduction in the General Fund Reserve.
CEQA: Not a Project
Recommended Action: Adopt
- c. Resolution No. 7518 amending the Fiscal Year 2023-24 Operating Budget authorizing a supplemental budget appropriation for a new Recreation Supervisor in the amount of \$112,000, offset by a reduction in the General Fund Reserve.
CEQA: Not a Project
Recommended Action: Adopt
- d. Establishment of new Ambulance Operator Class Specification.
CEQA: Not a Project
Recommended Action: Approve
- e. Agreement for Specialized Personnel-Related Legal Services and an Employment Relations Consortium Agreement for personnel-related training and services with Liebert Cassidy Whitmore in an amount not to exceed \$192,000 over a three-year period.
CEQA: Not a Project
Recommended Action: Approve
- f. Amendment to the agreement with AdminSure Inc. for Workers' Compensation Third Party Claims Administration Services extending the term for an additional two years in the amount of \$209,880.
CEQA: Not a Project
Recommended Action: Approve
- g. Renewal of the Fire Communications Service Agreement with the Verdugo Cities for Fire Dispatch Services in the amount of \$468,960.
CEQA: Not a Project
Recommended Action: Approve
- h. Purchase Order with Tsai Fong for International Language Materials in an amount not to exceed \$33,500.
CEQA: Not a Project
Recommended Action: Approve
- i. Purchase Order with HydroPro Solutions for the purchase of Data Log Radio Read Water Meters for the City's water distribution system in the amount of \$1,200,000.
CEQA: Exempt
Recommended Action: Approve
- j. Reject low bid from UAG Cerritos I, LLC dba Penske Chevrolet and approve a Purchase Order with Mountain View Chevrolet for the purchase of one 2023 Chevrolet Silverado 1500 Pickup Truck in the amount of \$56,423.60.
CEQA: Not a Project
Recommended Action: Approve

- k. Reject low bids from UAG Cerritos I, LLC dba Penske Chevrolet and Courtesy Chevrolet Center, and approve a Purchase Order with Sierra Chevrolet of Monrovia for the purchase of three 2023 Chevrolet Silverado 2500 Heavy Duty Utility Service Body Pickup Trucks in the amount of \$196,682.31.

CEQA: Not a Project

Recommended Action: Approve

It was moved by Mayor Pro Tem Verlato, seconded by Council Member Kwan, and carried on a roll call vote to approve Consent Calendar Items 11.a through 11.k.

AYES: Verlato, Kwan, Wang, Cao, and Cheng

NOES: None

ABSENT: None

12. ADJOURNMENT

The City Council adjourned at 9:00 p.m. to Tuesday, August 15, 2023, at 6:00 p.m. in the City Council Conference Room.



Linda Rodriguez
Assistant City Clerk



STAFF REPORT

Development Services Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Jason Kruckeberg, Assistant City Manager/Development Services Director
Lisa Flores, Deputy Development Services Director
Prepared By: Gary Yesayan, Associate Planner

SUBJECT: RESOLUTION NO. 7519 ACCEPTING A DEDICATION FOR STREET AND SIDEWALK PURPOSES AND APPROVING FINAL TRACT MAP NO. 83124 FOR A SIX-UNIT MULTI-FAMILY RESIDENTIAL CONDOMINIUM SUBDIVISION AT 414 SOUTH SECOND AVENUE
CEQA: Exempt
Recommendation: Adopt

SUMMARY

Tentative tract maps and final maps are required for all subdivisions of condominium units. In accordance with Arcadia Development Code Section 9105.05.050, the City Council shall approve a final map if it conforms to all the requirements of the subdivision regulations of the Development Code and the State Subdivision Map Act. Tentative Tract Map No. TTM 20-02 (83124) was conditionally approved by the Planning Commission on September 22, 2020, to develop a six-unit multi-family residential condominium subdivision. The Map also shows a 12 foot dedication along the property's frontage for street and sidewalk purposes at 414 South Second Avenue.

It is recommended that the City Council adopt Resolution No. 7519 with a Categorical Exemption under the California Environmental Quality Act ("CEQA"); accepting a dedication for street and sidewalk purposes and approve a Final Tract Map for a six-unit multi-family residential condominium subdivision at 414 South Second Avenue.

BACKGROUND

Tentative Tract Map No. 20-02 (83124) was conditionally approved by the Planning Commission on September 22, 2020, for a six-unit multi-family residential condominium subdivision. As a Condition of Approval of the Map, a 12 foot strip of land in front of this property is being dedicated to the City for street and sidewalk purposes.

According to Development Code Section 9105.03.110, tentative tract maps are valid for 24-months after the effective date. The original expiration date was October 3, 2022, but a one-year extension was subsequently approved administratively, which extended the map to September 8, 2023. The extension was granted due to delays in processing the Final Tract Map by the Los Angeles County Department of Public Works. The Applicant submitted to Los Angeles County in May 2021 and received approval on December 5, 2022.

DISCUSSION

The Applicant/Property Owner has submitted the Final Tract Map with the land dedication, meeting all Conditions of Approval for the Tentative Map. Since this Tract Map includes an offer of dedication intended for future street and sidewalk purposes, the City Council must either accept or reject the offer before the Map can be approved.

The project is currently under construction and a Certificate of Occupancy will not be issued until the Map has been approved and recorded by the Los Angeles County Recorder's Office. Accepting the dedication is recommended, as it will create a public sidewalk along the frontage of the development. The Map has been reviewed by the Los Angeles County Department of Public Works – refer to Attachment No. 2. The Map has been found to be in substantial compliance with both the Tentative Map, as conditionally approved by the Planning Commission, and the subdivision regulations of the City's Development Code and State Subdivision Map Act.

ENVIRONMENTAL ANALYSIS

The proposed right-of-way dedication is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301(c) because this action consists of a legal transfer of ownership, which will result in negligible or no expansion of use beyond the project that was analyzed. The subdivision of Final Tract Map No. 83124 for condominium purposes is categorically exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the CEQA Guidelines as an infill development project.

FISCAL IMPACT

There will be no measurable fiscal impact incurred by the City as a result of this dedication. The land has some minor value and will require ministerial maintenance to ensure it is useable by the public and not hazardous.

RECOMMENDATION

It is recommended that the City Council adopt Resolution No. 7519 with a Categorical Exemption under the California Environmental Quality Act ("CEQA"), accepting a dedication for street and sidewalk purposes and approving Final Tract Map No. 83124 for a six-unit multi-family residential condominium subdivision at 414 South Second Avenue.

Approved:



Dominic Lazzaretto
City Manager

Attachment No. 1: Resolution No. 7519 with Final Tract Map No. 83124

Attachment No. 2: Letter of Compliance from Los Angeles County

Attachment No. 1

Resolution No. 7519

RESOLUTION NO. 7519

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, ACCEPTING A DEDICATION FOR STREET AND SIDEWALK PURPOSES AND APPROVING FINAL TRACT MAP NO. 83124 FOR A SIX-UNIT MULTI-FAMILY RESIDENTIAL CONDOMINIUM SUBDIVISION AT 414 SOUTH SECOND AVENUE

WHEREAS, on September 22, 2020, Tentative Tract Map No. 83124 was conditionally approved by the Planning Commission to develop a six-unit multi-family residential condominium subdivision and a dedication for a 12 foot wide strip of land along the property frontage for street and sidewalk purposes at 414 South Second Avenue. According to Development Code Section 9105.03.110, tentative tract maps are valid for 24 months after the effective date. A one-year extension was approved administratively on November 29, 2022, extending Tentative Tract Map No. 83124 to September 8, 2023; and

WHEREAS, on May 25, 2023, the Applicant, Annie Chan (“Applicant”) on behalf of the property owner, 418 Second Avenue, LLC, has submitted the final tract map with the land dedication, meeting all Conditions of Approval for the tentative map; and

WHEREAS, on July 20, 2023, Planning Services completed an environmental assessment for the right-of-way dedication. The dedication is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301(c) because this action consists of a legal transfer of ownership, which will result in negligible or no expansion of use beyond the project that was analyzed. The subdivision of Final Tract Map No. 83124 for condominium purposes is categorically exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to Section 15332 of the CEQA Guidelines as an infill development project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES HEREBY RESOLVES AND DETERMINE AS FOLLOWS:

SECTION 1. That Final Tract Map No. 83124 dedicates to the City a 12 foot wide strip of land for street and sidewalk purposes along the front of the subject property at 414 South Second Avenue, and the City hereby accepts the dedication.

SECTION 2. The City Council of the City of Arcadia determines that the right-of-way dedication is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301(c) because this action consists of a legal transfer of ownership, which will result in negligible or no expansion of use beyond the project that was analyzed. The Final Tract Map No. 83124 for condominium purposes is categorically exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to Section 15332 of the CEQA Guidelines as an infill development project.

SECTION 3. For the foregoing reasons, the City Council accepts the dedication of certain property as indicated in Tract Map No. 83124 for public use, and determines the approval and dedication are categorically exempt under the California Environmental Quality Act (“CEQA”) Sections 15301(c) and 15332 for the approval of Final Tract Map No. 83124 for a six-unit multi-family residential condominium subdivision at 414 South Second Avenue.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution.

Passed, approved and adopted this 15th day of August, 2023.

Mayor of the City of Arcadia

ATTEST:

City Clerk

APPROVED AS TO FORM:



Michael J. Maurer
City Attorney

1 LOT
24,302 S.F. (GROSS)
23,202 S.F. (NET)

TRACT NO. 83124

SHEET 1 OF 2 SHEETS

IN THE CITY OF ARCADIA
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

BEING A SUBDIVISION OF PORTION OF BLOCK 59 OF SANTA ANITA TRACT NO. 3430, AS PER MAP RECORDED IN BOOK 34, PAGES 41 AND 42 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

FOR CONDOMINIUM PURPOSES

OWNER'S STATEMENT:

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR ARE INTERESTED IN THE LANDS INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP WITHIN THE DISTINCTIVE BORDER LINES, AND WE CONSENT TO THE PREPARATION AND FILING OF SAID MAP AND SUBDIVISION.

WE HEREBY DEDICATE TO THE PUBLIC USE ALL STREETS, HIGHWAYS, AND OTHER PUBLIC WAYS SHOWN ON SAID MAP.

410 SECOND AVENUE LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (OWNER)

BY: Annie Chan
ANNIE CHAN (MANAGING MEMBER)

BENEFICIARY:

ROYAL BUSINESS BANK, BENEFICIARY, UNDER A DEED OF TRUST RECORDED AUGUST 2, 2021, AS DOCUMENT NO. 20211101888 OF OFFICIAL RECORDS, RECORDS OF THE COUNTY OF LOS ANGELES.

PRINT NAME Doris Young TITLE SVP / Commercial Lending Manager
PRINT NAME Jessica Yung TITLE SUP / UNDERWRITING MANAGER

NOTARY ACKNOWLEDGEMENT:

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) Wentworth

ON January 9, 2023, BEFORE ME, Angela L Wong, A NOTARY PUBLIC, PERSONALLY APPEARED Doris Young and Jessica Yung, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAMES IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/they EXECUTED THE SAME IN HIS/HER/their AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/their SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S) OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL

SIGNATURE Angela L Wong

PRINTED NAME: Angela L Wong

MY PRINCIPAL PLACE OF BUSINESS IS IN Wentworth LOS ANGELES COUNTY.

MY COMMISSION NO. 2291276

MY COMMISSION EXPIRES: July 16, 2023

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

ON May 23, 2023, BEFORE ME, Natalie Yin Mei Ng, A NOTARY PUBLIC, PERSONALLY APPEARED Annie Chan, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAMES IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/they EXECUTED THE SAME IN HIS/HER/their AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/their SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S) OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL

SIGNATURE Natalie Yin Mei Ng

PRINTED NAME: Natalie Yin Mei Ng

MY PRINCIPAL PLACE OF BUSINESS IS IN LOS ANGELES COUNTY.

MY COMMISSION NO. 2310001

MY COMMISSION EXPIRES: 10/22/2023

CONDOMINIUM NOTE:

THIS SUBDIVISION IS APPROVED AS A CONDOMINIUM PROJECT FOR 6 UNITS, WHEREBY THE OWNERS OF THE UNITS OF AIR SPACE WILL HOLD AN UNDIVIDED INTEREST IN THE COMMON AREAS THAT WILL, IN TURN, PROVIDE THE NECESSARY ACCESS AND UTILITY EASEMENTS FOR THE UNITS.

SIGNATURE OMISSION NOTES:

THE SIGNATURES OF THE PARTIES NAMED HERINAFTER AS OWNERS OF THE INTEREST SET FORTH, HAVE BEEN OMITTED UNDER PROVISIONS OF THE SUBDIVISION MAP ACT SECTION 66436 (a)3A(1)-(VIII), AS THEIR INTEREST IS SUCH THAT IT CAN NOT RIPEN INTO A FEE TITLE AND SAID SIGNATURES ARE NOT REQUIRED BY THE LOCAL AGENCY.

SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, HOLDER OF AN EASEMENT FOR POLE LINE PURPOSES, BY DEED RECORDED MARCH 4, 1959, AS DOCUMENT NO. 2751 IN BOOK D387 PAGE 318 OF OFFICIAL RECORDS, RECORDS OF THE COUNTY OF LOS ANGELES.

SOUTHERN CALIFORNIA GAS COMPANY, HOLDER OF AN EASEMENT AND RIGHT OF WAY FOR GAS PIPELINE PURPOSES BY DEED RECORDED DECEMBER 2, 2021, AS DOCUMENT NO. 20211782971 OF OFFICIAL RECORDS, RECORDS OF THE COUNTY OF LOS ANGELES. SAID EASEMENT IS BLANKET IN NATURE.

COUNTY TAX CERTIFICATES:

I HEREBY CERTIFY THAT SECURITY IN THE AMOUNT OF \$ _____ HAS BEEN FILED WITH THE EXECUTIVE OFFICER, BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES AS SECURITY FOR THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES ON THE LAND SHOWN ON MAP OF TRACT NO. 83124 AS REQUIRED BY LAW.

EXECUTIVE OFFICER, BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

BY _____ DEPUTY DATE _____

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A TRUE AND COMPLETE FIELD SURVEY PERFORMED BY ME OR UNDER MY DIRECTION IN DECEMBER, 2019, IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF MING CHENG CHAN, ON DECEMBER 23, 2019. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP, THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED THAT THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

12-13-2022
DATE

Jack C Lee
JACK C. LEE LS 8407



BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING S00°00'43"W OF THE CENTERLINE OF SECOND AVENUE AS SHOWN ON MAP OF TRACT NO. 52889 FILED IN BOOK 1212, PAGES 86 AND 88 OF MAPS, RECORDS OF THE COUNTY OF LOS ANGELES.

CITY ENGINEER'S CERTIFICATE:

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP, THAT IT CONFORMS SUBSTANTIALLY TO THE TENTATIVE MAP AND ALL APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF SUBDIVISION ORDINANCES OF THE CITY OF ARCADIA APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH; AND THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT WITH RESPECT TO CITY RECORDS.

DATE _____ CITY ENGINEER, CITY OF ARCADIA
KEVIN MERVILL
RCE 73749 EXPIRES: JUNE 30, 2025

CITY TREASURER'S CERTIFICATE:

I HEREBY CERTIFY THAT ALL SPECIAL ASSESSMENTS LEVIED UNDER THE JURISDICTION OF THE CITY OF ARCADIA, TO WHICH THE LAND INCLUDED IN THE WITHIN SUBDIVISION OR ANY PART THEREOF IS SUBJECT, AND WHICH MAY BE PAID IN FULL, HAVE BEEN PAID IN FULL.

DATE _____ CITY TREASURER
CITY OF ARCADIA

PLANNING COMMISSION'S CERTIFICATE:

THIS IS TO CERTIFY THAT THE TENTATIVE MAP OF TRACT NO. 83124 WAS APPROVED AT A MEETING HELD ON THE 22ND DAY OF SEPTEMBER, 2020. I HEREBY CERTIFY THAT THIS MAP SUBSTANTIALLY COMPLIES WITH THE PREVIOUSLY APPROVED TENTATIVE MAP.

DATE _____ SECRETARY OF THE PLANNING COMMISSION
CITY OF ARCADIA

FINANCE DIRECTOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE FEE REQUIRED BY SECTION 916.4 OF THE MUNICIPAL CODE HAS BEEN PAID TO THE CITY OF ARCADIA.

DATE _____ FINANCE DIRECTOR - CITY OF ARCADIA

CITY CLERK'S CERTIFICATE:

I HEREBY CERTIFY THAT CITY COUNCIL OF THE CITY OF ARCADIA BY MOTION PASSED ON _____ APPROVED THE ATTACHED MAP AND ACCEPTED THE DEDICATION TO THE PUBLIC USE OF ALL STREETS, HIGHWAYS, AND OTHER PUBLIC WAYS AS SHOWN ON SAID MAP

DATE _____ CITY CLERK - CITY OF ARCADIA

COUNTY SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP, THAT IT COMPLIES WITH ALL PROVISIONS OF STATE LAW APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP; AND THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT IN ALL RESPECTS NOT CERTIFIED BY THE CITY ENGINEER.

COUNTY SURVEYOR

BY _____ DATE _____

COUNTY TAX CERTIFICATES:

I HEREBY CERTIFY THAT ALL CERTIFICATES HAVE BEEN FILED AND DEPOSITS HAVE BEEN MADE THAT ARE REQUIRED UNDER THE PROVISIONS OF SECTIONS 66492 AND 66493 OF THE SUBDIVISION MAP ACT.

EXECUTIVE OFFICER, BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

BY _____ DEPUTY DATE _____

TRACT NO. 83124

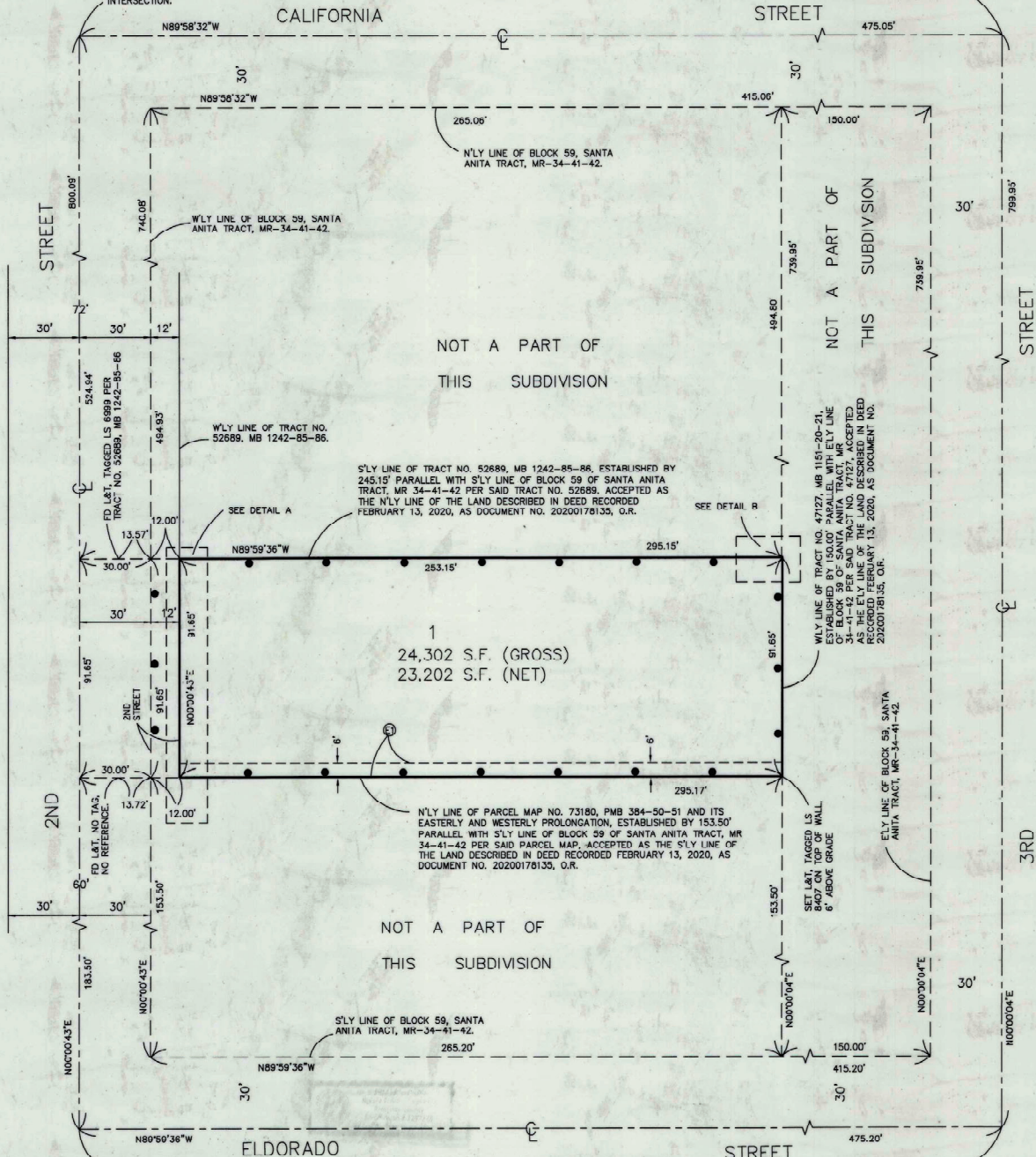
IN THE CITY OF ARCADIA
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
FOR CONDOMINIUM PURPOSES

LEGEND

INDICATES THE BOUNDARY OF THE LAND BEING SUBDIVIDED BY THIS MAP.

FD S&W, STAMPED RCE 18906 PER LA CO. PWB 1628-842-843, FITS ALL FD L&T TIES PER SAID FB, ACCEPTED AS CENTERLINE INTERSECTION.

ESTABLISHED CENTERLINE INTERSECTION ON SEWER MANHOLE COVER BY USING 3 FD L&T, TAGGED RCE 29949 TIES PER LA CO. PWB 1628-844-845, ACCEPTED AS CENTERLINE INTERSECTION.

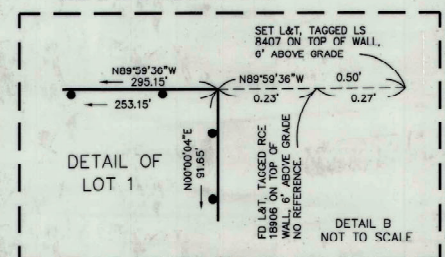
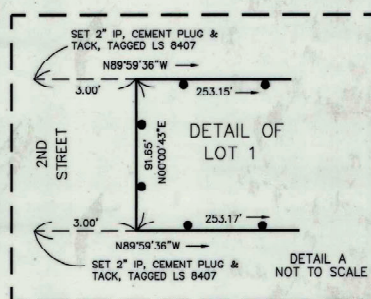


FD S&W, STAMPED LS 8924 PER LA CO. PWB 1628-304-805, FITS 2 FD L&T, TAGGED RCE 27460 AND 2 L&T TAGGED LS 7601 TIES PER SAID FB, ACCEPTED AS CENTERLINE INTERSECTION.

ESTABLISHED CENTERLINE INTERSECTION ON SEWER MANHOLE COVER BY USING 4 FD L&T, TAGGED LS 6999 TIES PER CITY TIE NO. 784, ACCEPTED AS CENTERLINE INTERSECTION.

EASEMENT NOTES

- ① 6' WIDE EASEMENT OF SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITY PURPOSES, PER DEED RECORDED MARCH 4, 1929, AS DOCUMENT NO. 2751 IN BOOK 3387 PAGE 518, OF OFFICIAL RECORDS, RECORDS OF LOS ANGELES COUNTY.



Attachment No. 2

Letter of Compliance from Los Angeles County



MARK PESTRELLA, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

December 5, 2022

IN REPLY PLEASE

REFER TO FILE: **LD-2**

Mr. Philip Wray
City Engineer
City of Arcadia
P.O. Box 60021
Arcadia, CA 91006-6021

Dear Mr. Wray:

TRACT 83124

Tract 83124 (enclosed) has been reviewed and approved by Public Works for mathematical accuracy, survey analysis, title information, and for compliance with the Subdivision Map Act. It is ready for your examination and certification as to compliance with the conditions of approval and applicable City ordinances.

The City Council or Advisory Agency should make the findings required by the California Environmental Quality Act and the Subdivision Map Act.

After your approval and the approval of the City Council or Advisory Agency, the final map should be returned to Los Angeles County Public Works, Land Development Division, for filing with the Registrar-Recorder/County Clerk's office.

If you have any questions, please contact Mr. Edmond Ghadimi of Public Works, Land Development Division, at (626) 458-4915 or eghadimi@pw.lacounty.gov.

Very truly yours,

MARK PESTRELLA, PE
Director of Public Works

for 
ARTHUR VANDER VIS, PE
Assistant Deputy Director
Land Development Division

EG:kt

P:\LDPUB\SUBMAP\LETTERS\CITY LETTERS - TRACT 83124 CITY LETTER (ARCADIA).DOC

Enc.



STAFF REPORT

Administrative Services Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Hue C. Quach, Administrative Services Director
Henry Chen, Financial Services Manager/City Treasurer

SUBJECT: RESOLUTION NO. 7520 DETERMINING THE AMOUNT OF REVENUE TO BE RAISED FROM PROPERTY TAXES FOR FISCAL YEAR 2023-24 TO PAY FOR THE DEBT SERVICE ON THE 2021 GENERAL OBLIGATION REFUNDING BONDS (SERIES BOND MEASURE A AND SERIES POLICE STATION PROJECT)
CEQA: Not a Project
Recommendation: Adopt

SUMMARY

The City has two General Obligation Bonds supported by voter approved levies. The Series 2011 issuance was to fund the building of a grade separation at the intersection of Santa Anita Avenue and the Gold Line right-of-way alignment; the General Obligation Bonds Series 2012 are refunding bonds, replacing the Series 2001 General Obligation Bonds, which were used to finance the construction of the City's police station. In 2021, these bonds were refinanced into the 2021 General Obligation Refunding Bonds (Series Bond Measure A and Series Police Station Project). Annually, the City Council is required to adopt a resolution to establish the supplemental taxes collected to make debt service payments for the outstanding General Obligation Bonds. The rates established for Fiscal Year 2023-24 are estimated to generate tax revenue of \$1,035,800 for the 2021 General Obligation Refunding Bonds (\$618,100 for the Series Bond Measure A and \$417,700 for the Series Police Station Project) and will be paid directly by property owners as part of their annual property tax bills.

It is recommended that the City Council adopt Resolution No. 7520 determining the amount of revenue to be raised from property taxes for Fiscal Year 2023-24 to pay for the debt service on the 2021 General Obligation Refunding Bonds (Series Bond Measure A and Series Police Station Project).

BACKGROUND

The issuance of Series 2001 General Obligation Bonds was approved in a Special Election held on November 2, 1999, to fund the Arcadia Police Station. The Series 2011

issuance was approved by voters during the election on April 11, 2006, to fund the grade separation on Santa Anita Avenue for the Gold Line transit corridor; these are also known as the Measure A bonds. More than two-thirds of the votes cast for each measure were in favor of the agreed indebtedness with the principal and interest payable from taxes levied upon taxable property within the City. Both the 2001 and 2011 Bonds are payable entirely by ad valorem property taxes levied by the City and collected by Los Angeles County.

In 2012, the bond market provided an opportunity to refinance the Series 2001 General Obligation Bonds. General Obligation Bonds Series 2012 were issued on November 6, 2012, solely for the refunding of the Series 2001, providing savings of approximately \$1 million for taxpayers over the life of the bonds.

In 2021, with the interest rates near historical lows due to the COVID-19 pandemic, conditions provided another opportunity to refinance both Series 2011 and 2012 General Obligation Bonds. A private placement with Sterling Bank (subsequently acquired by Webster Financial) was done to refinance both the 2011 and 2012 Series General Obligations Bonds. The transaction closed on November 23, 2021, and the private placement will yield roughly \$840,000 in additional savings to taxpayers over the life of the bonds.

Each year, a resolution must be adopted by the City Council to determine the amount of revenue required to be raised from property taxes to pay the debt service on the General Obligation Bonds. This information is the basis for establishing tax rates, which are forwarded to Los Angeles County and will be applied to properties within the City's boundaries.

DISCUSSION

A separate schedule (Attachment No. 2) illustrating the calculation of the tax rate is attached to provide details of the debt service payments, the assessed valuations, beginning balances, estimated expenditures, and the proposed tax rate for Fiscal Year 2023-24.

The levy rate for Series 2021 General Obligation Refunding Bonds are as follows:

	<u>Current Year's Rate</u>	<u>Prior Year's Rate</u>
Measure A	0.003018%	0.002162%
Police Station	0.002040%	0.002131%

This year's rate for the Measure A bonds increased to account for some costs from the 2021 refinancing that did not get factored into the prior year's levy calculation. This is a one-time adjustment and future years will see reductions of tax assessment rates. The reduction in the tax rates for the Police Station Project is due to the 4.66% increase in the City's property assessed value for FY 2023-24. With these rates, a home valued at \$1,000,000 would pay \$30.18 in taxes for the Series Bond Measure A and \$20.40 for the Series Police Station Project Bonds as part of their annual property tax payments.

The required FY 2023-24 debt service payments for the Series Bond Measure A total \$523,700, of which \$473,000 represents Principal and \$50,700 is Interest. For the Series Police Station Project, the total amount due in FY 2023-24 is \$411,000, including \$371,000 for Principal and \$40,000 for Interest. The expected amounts to be collected based on the proposed levy will be approximately \$618,100 for the Series Measure A and \$417,700 for the Series Police Station Project. The difference between the required payments and anticipated collections allows some cushion for property owner late payments, missed payments, and re-assessments that may happen during the year. Any funds that are not needed for this Fiscal Year will be applied to next year's associated calculations and payments.

ENVIRONMENTAL ANALYSIS

The proposed action does not constitute a project under the California Environmental Quality Act ("CEQA"), under Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA.

FISCAL IMPACT

No General Fund costs are incurred through this action. The rates established for Fiscal Year 2023-24 are estimated to generate tax revenue of \$1,035,800 for the 2021 General Obligation Refunding Bonds (\$618,100 for the Series Bond Measure A and \$417,700 for the Series Police Station Project Bonds) and will be paid directly by property owners as part of their annual property tax bills. These tax revenues will be added to the balance of each bond's fund, to make debt service payments occurring in Fiscal Year 2023-24.

RECOMMENDATION

It is recommended that the City Council determine this action does not constitute a project under the California Environmental Quality Act ("CEQA"); and adopt Resolution No. 7520 determining the amount of revenue to be raised from property taxes for Fiscal Year 2023-24 to pay for the debt service on the 2021 General Obligation Refunding Bonds (Series Bond Measure A and Series Police Station Project).

Resolution No. 7520 Fiscal Year 23-24 Tax Levies
On General Obligation Bonds
August 15, 2023
Page 4 of 4

Approved:



Dominic Lazzaretto
City Manager

Attachment No. 1: Resolution No. 7520
Attachment No. 2: Exhibit "A" – Calculation of Tax Rate

RESOLUTION NO. 7520

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DETERMINING THE AMOUNT OF REVENUE TO BE RAISED FROM PROPERTY TAXES FOR FISCAL YEAR 2023-24 TO PAY FOR THE DEBT SERVICE ON THE 2021 GENERAL OBLIGATION REFUNDING BONDS (SERIES BOND MEASURE A AND SERIES POLICE STATION PROJECT)

WHEREAS, in a special election held on November 2, 1999, City of Arcadia voters approved the issuance of General Obligation Bonds Series 2001 in the principal of \$8 million for the construction of a police facility; the 2001 Bonds were defeased by the issuance of General Obligation Bonds Series 2012 on November 6, 2012; the 2012 Bonds were defeased by the issuance of General Obligation Refunding Bonds (Series Police Station Project) on November 23, 2021 and property taxes are to be raised for the principal and interest payments of the indebtedness through tax levy; and

WHEREAS, in the general municipal election held on April 11, 2006, City of Arcadia voters approved the issuance of General Obligation Bonds Series 2011 in the principal of \$8 million for the construction of a grade separation, which is located at the intersection of Santa Anita Avenue and the Foothill Extension of the Metropolitan Transit Authority Gold Line; the 2011 Bonds were defeased by the issuance of General Obligation Refunding Bonds (Series Bond Measure A) on November 23, 2021 and property taxes are to be raised for the principal and interest payments of the indebtedness through tax levy.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS.

SECTION 1. The following is the amount of revenue necessary during Fiscal Year 2023-24 to pay for the authorized debt service on the above-described Bonds:

Series 2021 General Obligation Refunding Bonds

(Series Police Station): \$618,100

Series 2021 General Obligation Refunding Bonds

(Series Measure A): \$417,700

SECTION 2. The City Clerk shall certify to the adoption of this Resolution.


Passed, approved and adopted this 15th day of August, 2023.

Mayor of the City of Arcadia

ATTEST:

City Clerk

APPROVED AS TO FORM:



Michael J. Maurer
City Attorney

Exhibit "A"
Calculation of Tax Rate

General Obligation Bonds	Balance Available (1) 7-01-23	2023-24 Assessed Valuations	Estimated Tax Revenue	Debt Service (2)	% Tax Rates 2022-23 (3)
2021 Series Measure A	\$409,100	\$20,477,124,306	\$618,100	\$523,700	0.003018%
2021 Series Police Station	\$386,700	\$20,477,124,306	\$417,700	\$411,000	0.002040%

- (1) Excess fund balance is included to ensure that positive cash balance is available for the debt service payments on August 1, 2023.
- (2) Per debt service schedule below.
- (3) For comparison, the levy rate from last year was 0.002162% and 0.002131% for Series 2021 General Obligation Refunding Bonds (Series Bond Measure A and Series Police Station Project), and their first-year levy rates were 0.006621% and 0.009657% in 2011 and 2001, respectively.

DEBT SERVICE PAYMENT SCHEDULE:

	2021 G.O. Bond Series Measure A	2021 G.O. Bond Series Police Station
Principal	\$473,000	\$371,000
Interest	\$50,700	\$40,000
Total	\$523,700	\$411,000



STAFF REPORT

Administrative Services Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Hue C. Quach, Administrative Services Director
By: Henry Chen, Financial Services Manager/Treasurer

SUBJECT: RESOLUTION NO. 7521 AMENDING THE FISCAL YEAR 2023-24 OPERATING BUDGET AUTHORIZING A SUPPLEMENTAL BUDGET APPROPRIATION FOR CLOUD HOSTING FEES IN THE AMOUNT OF \$160,000, OFFSET BY A REDUCTION IN THE GENERAL FUND RESERVE; AND APPROVING A SOFTWARE SERVICE AGREEMENT WITH ORACLE AMERICA AND CAN/AM TECHNOLOGIES FOR THE IMPLEMENTATION OF A NEW FINANCIAL ENTERPRISE RESOURCE PLANNING AND CASHIERING SOFTWARE SYSTEM IN THE AMOUNT OF \$450,000.

CEQA: Not a Project

Recommendation: Adopt and Approve

SUMMARY

The Administrative Services Department (“ASD”) currently utilizes an Enterprise Resource Planning (“ERP”) software system to manage the day-to-day financial activities of the City. These activities include cash receipts, accounts payable, human resources, budgeting, purchasing, payroll, the general ledger, and other related functions. The current ERP system was deployed in 1999 and lacks many of the features and functions of a modern ERP system. Much of the supporting software needed to operate the current ERP is out of date and no longer supported by the vendor. A new system with modern features would enable staff to work more efficiently and securely. To ensure the City is receiving the highest quality of service and most competitive pricing for this type of software, the Administrative Services Department solicited a formal Request for Proposals (“RFP”). Oracle America (“Oracle”) and Can/Am Technologies (“Can/Am”) have proposed a cloud-based ERP and cashiering software system with the best combination of features and usability, eliminating the City’s concerns over aging technology, security, infrastructure maintenance, and additional hardware costs.

Based on the evaluated proposals, it is recommended that the City Council approve, authorize, and direct the City Manager to execute Software Service Agreements with both

Oracle and Can/Am, for implementation of the Oracle NetSuite for Government and Teller Cashiering software, in the amount of \$450,000.

As part of the implementation process, both firms require that their products be installed and hosted on their respective cloud platforms. This will be an ongoing annual cost and will cover the hosting of their products as well as annual upgrades and the addition of any new features. The annual costs for hosting and maintenance services are estimated to be \$160,000. It is recommended that the City Council approve Resolution No. 7521 to amend the Fiscal Year 2023-24 Operating Budget, authorizing a supplemental budget appropriation of \$160,000 from the General Fund Reserve to pay for the first year of maintenance of the new system.

BACKGROUND

The City's current ERP software was implemented in 1999 and is hosted on the City's servers. The server and database operate on a Microsoft Server and SQL Server 2008, which Microsoft discontinued support for in July 2019. City staff are required to use Internet Explorer to access the program, which Microsoft also stopped supporting in August 2021. Using software that is no longer supported by Microsoft creates numerous concerns that prevent the City from updating its software to fix problems or receive adequate protection from the latest security threats.

The City's Information Technology Division ("IT") raised concerns that continuing to use the existing ERP software will create more risk to the City's overall system. Using an antiquated system is also creating additional work for IT staff, who has to reboot the servers twice a week for it to function normally. The ERP system is no longer compatible with much of the newer software the City currently uses. The information from those systems must be manually imported into the ERP system, which creates inefficiencies and unnecessary work for staff. The reporting function is also quite archaic and limited, which forces staff to run several different reports and manually combine them to gather the required information. For instance, Finance staff currently uses three different programs to produce the budget each year. Having a single, capable product would reduce workload redundancy and help reduce errors, eliminating the need to input information into several different programs. IT has put a hold on some needed upgrades with the City's system due to the negative impact it would have on the existing ERP system. Implementing a new ERP system would resolve these issues and provide numerous benefits like creating efficiencies, increasing productivity, saving duplicative work, and reducing risk.

DISCUSSION

Implementation of a new ERP system will increase efficiencies by reducing the time and expense of supporting the existing legacy software. Following the transition, the amount of time IT spends supporting the legacy software will be drastically reduced, allowing staff

to invest in other critical operations for the City. Additionally, the annual cost to maintain the existing servers will be reduced, allowing the City to reallocate its backup infrastructure to other key areas. City staff will also benefit from a significant reduction in the manual processes that are currently needed to work with the existing legacy software. Overall, valuable time can be reallocated to the performance of other daily duties, which results in greater operational efficiencies for internal services staff.

To address the various costs, security, and workload concerns, the RFP requested a cloud-based solution for the new financial ERP system, to include modern features such as electronic workflow, integrated modules, paperless functionality, and robust reporting functions. The new ERP system will also have robust state-of-the-art security features, so sensitive and protected information stays secure. Utilizing Software as a Service (“SaaS”) for cloud-based hosting of the ERP system allows for regular updates to the software and integrated security features.

A Notice Inviting Proposals was published in accordance with the City’s notice requirements, and proposal packages were distributed to vendors that provide financial ERP software packages. Five proposals were received and evaluated based on vendor experience and qualifications; understanding the City’s software needs; proposed implementation process; and cost. ASD established an internal committee to review and rank all received proposals.

All the proposals were informative and provided a thorough overview of the proposed product. The responding vendors were able to provide an outline of their implementation process and highlight the relevant features of their ERP software package. The results of the evaluation with each responding vendor’s ranking and associated cost are listed below:

RANK	VENDOR	IMPLEMENTATION COST	ANNUAL MAINTENANCE	TOTAL COST OF OWNERSHIP (5 YEARS)
1	Oracle America/Can Am	\$ 438,807	\$ 154,654	\$ 1,232,885
2	Central Square	533,710	160,558	1,420,595
3	Univerus	356,000	270,105	1,873,122
4	Ellipse	950,000	200,000	1,950,000
5	Tyler Technology	466,863	268,078	1,807,253

All the responding firms had an opportunity to present a demonstration of their software and to answer questions from staff. After reviewing the five demonstrations and after an extensive evaluation period, the top firm was determined to be Oracle.

All the solutions proposed by the vendors were comprehensive and would provide new tools to help staff work more efficiently and improve the City’s internal processes. There were a few features from Oracle’s proposal that separated them from the other vendors. One key differentiator was their implementation process, which utilizes a pre-configured

and pre-defined setup to minimize the time and cost of the implementation. Another feature that staff favored was their report writing tools, which were very intuitive and do not require technical skills to be able to navigate. Their cost was also the most reasonable, providing the best value for the City over a five-year window.

Even though Oracle had the highest ranking, their original proposal did not include a cashiering module, which was a required element of the RFP. To address this deficiency, Oracle provided the City with vendors that provided a cashiering module and had worked with Oracle previously. In addition, staff reached out to other agencies for other vendors that provided cashiering software. Staff then reached out to three of those vendors to arrange demonstrations of their software. Based on the features and quotes provided by those vendors, Can/Am was judged to be the top selection. The amounts listed in the table above include the cost for both Oracle and Can/Am software.

Oracle, headquartered in Austin, Texas, is the second largest provider of software solutions in the world. Their proposed solution, NetSuite, has been on the market for 20 years and is currently used by over 32,000 organizations worldwide. Oracle launched NetSuite for Government in 2021 to meet the needs of the government sector and to focus on the specific fund accounting and reporting functions of governmental agencies. Even though NetSuite for Government is a relatively new product, staff believes that with the backing of such an established company, the proposed solution proposed will meet and exceed the City's expectations.

Can/Am Technologies, headquartered in Lakewood, Colorado, was founded in 2000 to provide point of sale and cashiering solutions to local and state governments. Profitable every year since their founding, Can/Am has earned a solid reputation for providing a high level of ongoing, hands-on client support. With numerous California clients, their reputation is first-rate, and their references were excellent.

A copy of the License and Services Agreement with Oracle and Can/Am Technologies is attached.

ENVIRONMENTAL ANALYSIS

The proposed action does not constitute a project under the California Environmental Quality Act ("CEQA"), under Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA.

FISCAL IMPACT

The Capital Improvement Program provided \$500,000 for the implementation of a new Financial ERP software system. The total cost for the implementation of Oracle NetSuite for Government and Teller Cashiering is estimated to be \$450,000. Both companies

require cloud hosting fees to be paid during the implementation process, which is estimated to total \$160,000. Successive year's cloud hosting and maintenance fees will be subject to minor cost increases that will be included in the City's Annual Operating Budget.

RECOMMENDATION

It is recommended that the City Council determine that this action does not constitute a project, and therefore, is exempt under, the California Environmental Quality Act ("CEQA"); and adopt Resolution No. 7521 amending the Fiscal Year 2023-24 Operating Budget, authorizing a supplemental budget appropriation for cloud hosting fees in the amount of \$160,000, offset by a reduction in the General Fund Reserve; and approve, and authorize and direct the City Manager to execute a Software Service Agreement with Oracle America and Can/Am Technologies for implementation of the new financial Enterprise Resource Planning and cashiering software system in the amount of \$450,000.

Approved:


Dominic Lazzaretto
City Manager

Attachments: Resolution No. 7521
Oracle Solutions License and Services Agreement
Can/Am License and Services Agreement

RESOLUTION NO. 7521

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, AMENDING THE FISCAL YEAR 2023-24 OPERATING BUDGET, AUTHORIZING A SUPPLEMENTAL BUDGET APPROPRIATION FOR CLOUD HOSTING FEES IN THE AMOUNT OF \$160,000, OFFSET BY A REDUCTION IN THE GENERAL FUND RESERVE

WHEREAS, On August 15, 2023, the City Council approved a contract for a new Enterprise Resource Planning (“ERP”) and cashiering software package system; and

WHEREAS, The new ERP and cashiering software will be hosted on the vendor’s cloud platform during the implementation process; and

WHEREAS, The total estimated cost of hosting the software is estimated to be \$160,000; and

WHEREAS, An appropriation of \$160,000 from the General Reserve Fund is being requested; and

WHEREAS, the City Manager has certified that there are sufficient reserves available in the General Reserve Fund for appropriation.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. The sum of One Hundred Sixty Thousand Dollars (\$160,000) is hereby appropriated in the FY23-24 Operating Budget, offset with an equal reduction in the General Reserve Fund.

SECTION 2. The City Clerk shall certify to the adoption of this Resolution.


Passed, approved and adopted this 15th day of August, 2023.

Mayor of the City of Arcadia

ATTEST:

City Clerk

APPROVED AS TO FORM:



Michael J. Maurer
City Attorney



PUBLIC SECTOR AGREEMENT FOR ORACLE CLOUD SERVICES

This Public Sector Agreement for Oracle Cloud Services (this “Agreement”) is between Oracle America, Inc. (“Oracle,” “we,” “us,” or “our”) and the entity that has executed this Agreement as identified in the signature block below (“You”). This Agreement sets forth the terms and conditions that govern orders placed under this Agreement.

1. USE OF THE SERVICES

1.1 We will make the Oracle services listed in Your order (the “Services”) available to You pursuant to this Agreement and Your order. Except as otherwise stated in this Agreement or Your order, You have the non-exclusive, worldwide, limited right to use the Services during the period defined in Your order, unless earlier terminated in accordance with this Agreement or Your order (the “Services Period”), solely for Your internal business operations. You may allow Your Users (as defined below) to use the Services for this purpose, and You are responsible for their compliance with this Agreement and Your order.

1.2 The Service Specifications describe and govern the Services. During the Services Period, we may update the Services and Service Specifications (with the exception of the Data Processing Agreement as described below) to reflect changes in, among other things, laws, regulations, rules, technology, industry practices, patterns of system use, and availability of Third Party Content (as defined below). Oracle updates to the Services or Service Specifications will not materially reduce the level of performance, functionality, security or availability of the Services during the Services Period of Your order.

1.3 You may not, and may not cause or permit others to: (a) use the Services to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; infringe property rights; or otherwise violate applicable laws, ordinances or regulations; (b) perform or disclose any benchmarking or availability testing of the Services; (c) perform or disclose any performance or vulnerability testing of the Services without Oracle’s prior written approval, or perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking or remote access testing of the Services; or (d) use the Services to perform cyber currency or crypto currency mining ((a) through (d) collectively, the “Acceptable Use Policy”). In addition to other rights that we have in this Agreement and Your order, we have the right to take remedial action if the Acceptable Use Policy is violated, and such remedial action may include removing or disabling access to material that violates the policy.

2. FEES AND PAYMENT

2.1 All fees payable are due within 30 days from the invoice date. Once placed, Your order is non-cancelable and the sums paid nonrefundable, except as provided in this Agreement or Your order. You will pay any sales, value-added or other similar taxes imposed by applicable law that we must pay based on the Services You ordered, except for taxes based on our income. If You are a tax exempt entity, You must provide the applicable tax certificate of exemption with Your order. Fees for Services listed in an order are exclusive of taxes and expenses.

2.2 If You exceed the quantity of Services ordered, then You promptly must purchase and pay fees for the excess quantity.

2.3 You understand that You may receive multiple invoices for the Services ordered. Invoices will be submitted to You pursuant to Oracle’s Invoicing Standards Policy, which may be accessed at <http://www.oracle.com/us/corporate/contracts/invoicing-standards-policy-1863799.pdf>.

3. OWNERSHIP RIGHTS AND RESTRICTIONS

3.1 You or Your licensors retain all ownership and intellectual property rights in and to Your Content (as defined below). We or our licensors retain all ownership and intellectual property rights in and to the Services, derivative works thereof, and anything developed or delivered by or on behalf of us under this Agreement.

3.2 You may have access to Third Party Content through use of the Services. Unless otherwise stated in Your order, all ownership and intellectual property rights in and to Third Party Content and the use of such content is governed by separate third party terms between You and the third party.

3.3 You grant us the right to host, use, process, display and transmit Your Content to provide the Services pursuant to and in accordance with this Agreement and Your order. You have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Your Content, and for obtaining all rights related to Your Content required by Oracle to perform the Services.

3.4 You may not, and may not cause or permit others to: (a) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish, download, or copy any part of the Services (including data structures or similar materials produced by programs); (b) access or use the Services to build or support, directly or indirectly, products or services competitive to Oracle; or (c) license, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, or make available the Services to any third party except as permitted by this Agreement or Your order.

4. NONDISCLOSURE

4.1 By virtue of this Agreement, the parties may disclose to each other information that is confidential ("Confidential Information"). Confidential Information shall be limited to the terms and pricing under this Agreement and Your order, Your Content residing in the Services, and all information clearly identified as confidential at the time of disclosure.

4.2 A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

4.3 Subject to applicable law, each party agrees not to disclose the other party's Confidential Information to any third party other than as set forth in the following sentence for a period of five years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party; however, we will protect the confidentiality of Your Content residing in the Services for as long as such information resides in the Services. Each party may disclose Confidential Information only to those employees, agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than required under this Agreement, and each party may disclose the other party's Confidential Information in any legal proceeding or to a governmental entity as required by law. We will protect the confidentiality of Your Content residing in the Services in accordance with the Oracle security practices defined as part of the Service Specifications applicable to Your order.

4.4 The parties acknowledge and agree that You and this Agreement are subject to applicable freedom of information or open records laws. Should You receive a request under such law for Oracle's Confidential Information, You agree to give Oracle adequate prior notice of the request and before releasing Oracle's Confidential Information to a third party, in order to allow Oracle sufficient time to seek injunctive relief or other relief against such disclosure.

5. PROTECTION OF YOUR CONTENT

5.1 In order to protect Your Content provided to Oracle as part of the provision of the Services, Oracle will comply with the applicable administrative, physical, technical and other safeguards, and other applicable aspects of system and content management, available at <http://www.oracle.com/us/corporate/contracts/cloud-services/index.html>.

5.2 To the extent Your Content includes Personal Data (as that term is defined in the applicable data privacy policies and the Data Processing Agreement (as that term is defined below)), Oracle will furthermore comply with the following:

- a. the relevant Oracle privacy policies applicable to the Services, available at <http://www.oracle.com/us/legal/privacy/overview/index.html>; and
- b. the applicable version of the Data Processing Agreement for Oracle Services (the “Data Processing Agreement”), unless stated otherwise in Your order. The version of the Data Processing Agreement applicable to Your order (a) is available at <https://www.oracle.com/corporate/contracts/cloud-services/contracts.html#data-processing> and is incorporated herein by reference, and (b) will remain in force during the Services Period of Your order. In the event of any conflict between the terms of the Data Processing Agreement and the terms of the Service Specifications (including any applicable Oracle privacy policies), the terms of the Data Processing Agreement shall take precedence.

5.3 Without prejudice to Sections 5.1 and 5.2 above, You are responsible for (a) any required notices, consents and/or authorizations related to Your provision of, and our processing of, Your Content (including any Personal Data) as part of the Services, (b) any security vulnerabilities, and the consequences of such vulnerabilities, arising from Your Content, including any viruses, Trojan horses, worms or other harmful programming routines contained in Your Content, and (c) any use by You or Your Users of the Services in a manner that is inconsistent with the terms of this Agreement. To the extent You disclose or transmit Your Content to a third party, we are no longer responsible for the security, integrity or confidentiality of such content outside of Oracle’s control.

5.4 Unless otherwise specified in Your order (including in the Service Specifications), Your Content may not include any sensitive or special data that imposes specific data security or data protection obligations on Oracle in addition to or different from those specified in the Service Specifications. If available for the Services, You may purchase additional services from us (e.g., Oracle Payment Card Industry Compliance Services) designed to address specific data security or data protection requirements applicable to such sensitive or special data You seek to include in Your Content.

6. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES

6.1 Each party represents that it has validly entered into this Agreement and that it has the power and authority to do so. We warrant that during the Services Period we will perform the Services using commercially reasonable care and skill in all material respects as described in the Service Specifications. If the Services provided to You were not performed as warranted, You must promptly provide us with a written notice that describes the deficiency in the Services (including, as applicable, the service request number notifying us of the deficiency in the Services).

6.2 WE DO NOT WARRANT THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, THAT WE WILL CORRECT ALL SERVICES ERRORS, OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS. WE ARE NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM YOUR CONTENT OR THIRD PARTY CONTENT OR SERVICES PROVIDED BY THIRD PARTIES.

6.3 FOR ANY BREACH OF THE SERVICES WARRANTY, YOUR EXCLUSIVE REMEDY AND OUR ENTIRE LIABILITY SHALL BE THE CORRECTION OF THE DEFICIENT SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF WE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE DEFICIENT SERVICES AND WE WILL REFUND TO YOU THE FEES PAID FOR THE DEFICIENT SERVICES FOR THE PERIOD OF TIME DURING WHICH THE SERVICES WERE DEFICIENT.

6.4 TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. LIMITATION OF LIABILITY

7.1 IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR ANY LOSS OF

REVENUE, PROFITS (EXCLUDING FEES UNDER THIS AGREEMENT), SALES, DATA, DATA USE, GOODWILL, OR REPUTATION.

7.2 IN NO EVENT SHALL THE AGGREGATE LIABILITY OF ORACLE AND OUR AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNTS ACTUALLY PAID UNDER YOUR ORDER FOR THE SERVICES GIVING RISE TO THE LIABILITY DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

8. INDEMNIFICATION

8.1 If a third party makes a claim against either You or Oracle ("Recipient" which may refer to You or us depending upon which party received the Material), that any information, design, specification, instruction, software, service, data, hardware, or material (collectively, "Material") furnished by either You or us ("Provider" which may refer to You or us depending on which party provided the Material) and used by the Recipient infringes the third party's intellectual property rights, the Provider, at the Provider's sole cost and expense, will, to the extent not prohibited by law, defend the Recipient against the claim and indemnify the Recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the Provider, if the Recipient does the following:

- a. notifies the Provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim (or sooner if required by applicable law);
- b. gives the Provider sole control of the defense and any settlement negotiations to the extent permitted by law; and
- c. gives the Provider the information, authority and assistance the Provider needs to defend against or settle the claim.

8.2 If the Provider believes or it is determined that any of the Material may have violated a third party's intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material and refund any unused, prepaid fees the Recipient may have paid to the other party for such Material. If such return materially affects our ability to meet obligations under the relevant order, then we may, upon 30 days prior written notice, terminate the order. If such Material is third party technology and the terms of the third party license do not allow us to terminate the license, then we may, upon 30 days prior written notice, end the Services associated with such Material and refund any unused, prepaid fees for such Services.

8.3 The Provider will not indemnify the Recipient if the Recipient (a) alters the Material or uses it outside the scope of use identified in the Provider's user or program documentation or Service Specifications, or (b) uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was made available to the Recipient. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any Material not furnished by the Provider. We will not indemnify You to the extent that an infringement claim is based on Third Party Content or any Material from a third party portal or other external source that is accessible or made available to You within or by the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, marketing data from third party data providers, etc.).

8.4 This Section 8 provides the parties' exclusive remedy for any infringement claims or damages.

9. TERM AND TERMINATION

9.1 Unless this Agreement is terminated earlier, You may place orders governed by this Agreement for a period of five years from the date You accept this Agreement. This Agreement will continue to govern any order for the duration of the Services Period of such order.

9.2 Services shall be provided for the Services Period defined in Your order. Notwithstanding anything to the contrary in the Service Specifications, the Services You order will not be automatically renewed.

9.3 We may suspend Your or Your Users' access to, or use of, the Services if we believe that (a) there is a significant threat to the functionality, security, integrity, or availability of the Services or any content, data, or

applications in the Services; (b) You or Your Users are accessing or using the Services to commit an illegal act; or (c) there is a violation of the Acceptable Use Policy. When reasonably practicable and lawfully permitted, we will provide You with advance notice of any such suspension. We will use reasonable efforts to re-establish the Services promptly after we determine that the issue causing the suspension has been resolved. During any suspension period, we will make Your Content (as it existed on the suspension date) available to You. Any suspension under this Section shall not excuse You from Your obligation to make payments under this Agreement.

9.4 If either of us breaches a material term of this Agreement or any order and fails to correct the breach within 30 days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate (a) in the case of breach of any order, the order under which the breach occurred; or (b) in the case of breach of the Agreement, the Agreement and any orders that have been placed under the Agreement. If we terminate any orders as specified in the preceding sentence, You must pay within 30 days all amounts that have accrued prior to such termination, as well as all sums remaining unpaid for the Services under such order(s) plus related taxes and expenses. Except for nonpayment of fees, the nonbreaching party may agree in its sole discretion to extend the 30 day period for so long as the breaching party continues reasonable efforts to cure the breach. You agree that if You are in default under this Agreement, You may not use those Services ordered.

9.5 You may terminate this Agreement at any time without cause by giving Oracle 30 days prior written notice of such termination. Termination of the Agreement will not affect orders that are outstanding at the time of termination. Those orders will be performed according to their terms as if this Agreement were still in full force and effect. However, those orders may not be renewed or extended subsequent to termination of this Agreement.

9.6 At the end of the Services Period, we will make Your Content (as it existed at the end of the Services Period) available for retrieval by You during a retrieval period set out in the Service Specifications. At the end of such retrieval period, and except as may be required by law, we will delete or otherwise render unrecoverable any of Your Content that remains in the Services. Our data deletion practices are described in more detail in the Service Specifications.

9.7 Provisions that survive termination or expiration of this Agreement are those relating to limitation of liability, indemnification, payment and others which by their nature are intended to survive.

10. THIRD-PARTY CONTENT, SERVICES AND WEBSITES

10.1 The Services may enable You to link to, transfer Your Content or Third Party Content to, or otherwise access, third parties' websites, platforms, content, products, services, and information ("Third Party Services"). Oracle does not control and is not responsible for Third Party Services. You are solely responsible for complying with the terms of access and use of Third Party Services, and if Oracle accesses or uses any Third Party Services on Your behalf to facilitate performance of the Services, You are solely responsible for ensuring that such access and use, including through passwords, credentials or tokens issued or otherwise made available to You, is authorized by the terms of access and use for such services. If You transfer or cause the transfer of Your Content or Third Party Content from the Services to a Third Party Service or other location, that transfer constitutes a distribution by You and not by Oracle.

10.2 Any Third Party Content we make accessible is provided on an "as-is" and "as available" basis without any warranty of any kind. You acknowledge and agree that we are not responsible for, and have no obligation to control, monitor, or correct, Third Party Content. We disclaim all liabilities arising from or related to Third Party Content.

10.3 You acknowledge that: (i) the nature, type, quality and availability of Third Party Content may change at any time during the Services Period, and (ii) features of the Services that interoperate with Third Party Services such as Facebook™, YouTube™ and Twitter™, etc., depend on the continuing availability of such third parties' respective application programming interfaces (APIs). We may need to update, change or modify the Services under this Agreement as a result of a change in, or unavailability of, such Third Party Content, Third Party Services or APIs. If any third party ceases to make its Third Party Content or APIs available on reasonable terms for the Services, as determined by us in our sole discretion, we may cease providing access to the affected Third Party Content or Third Party Services without any liability to You. Any changes to Third Party Content, Third Party Services or APIs, including their unavailability, during the Services Period does not affect Your obligations under this Agreement or the applicable order, and You will not be entitled to any refund, credit or other compensation due to any such changes.

11. SERVICE MONITORING, ANALYSES AND ORACLE SOFTWARE

11.1 We continuously monitor the Services to facilitate Oracle's operation of the Services; to help resolve Your service requests; to detect and address threats to the functionality, security, integrity, and availability of the Services as well as any content, data, or applications in the Services; and to detect and address illegal acts or violations of the Acceptable Use Policy. Oracle monitoring tools do not collect or store any of Your Content residing in the Services, except as needed for such purposes. Oracle does not monitor, and does not address issues with, non-Oracle software provided by You or any of Your Users that is stored in, or run on or through, the Services. Information collected by Oracle monitoring tools (excluding Your Content) may also be used to assist in managing Oracle's product and service portfolio, to help Oracle address deficiencies in its product and service offerings, and for license management purposes.

11.2 We may (i) compile statistical and other information related to the performance, operation and use of the Services, and (ii) use data from the Services in aggregated form for security and operations management, to create statistical analyses, and for research and development purposes (clauses i and ii are collectively referred to as "Service Analyses"). We may make Service Analyses publicly available; however, Service Analyses will not incorporate Your Content, Personal Data or Confidential Information in a form that could serve to identify You or any individual. We retain all intellectual property rights in Service Analyses.

11.3 We may provide You with the ability to obtain certain Oracle Software (as defined below) for use with the Services. If we provide Oracle Software to You and do not specify separate terms for such software, then such Oracle Software is provided as part of the Services and You have the non-exclusive, worldwide, limited right to use such Oracle Software, subject to the terms of this Agreement and Your order (except for separately licensed elements of the Oracle Software, which separately licensed elements are governed by the applicable separate terms), solely to facilitate Your use of the Services. You may allow Your Users to use the Oracle Software for this purpose, and You are responsible for their compliance with the license terms. Your right to use any Oracle Software will terminate upon the earlier of our notice (by web posting or otherwise) or the end of the Services associated with the Oracle Software. Notwithstanding the foregoing, if Oracle Software is licensed to You under separate terms, then Your use of such software is governed by the separate terms. Your right to use any part of the Oracle Software that is licensed under the separate terms is not restricted in any way by this Agreement.

12. EXPORT

12.1 Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Services. Such export laws govern use of the Services (including technical data) and any Services deliverables provided under this Agreement, and You and we each agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, software programs and/or materials resulting from the Services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

12.2 You acknowledge that the Services are designed with capabilities for You and Your Users to access the Services without regard to geographic location and to transfer or otherwise move Your Content between the Services and other locations such as User workstations. You are solely responsible for the authorization and management of User accounts across geographic locations, as well as export control and geographic transfer of Your Content.

13. FORCE MAJEURE

Neither You nor we shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export, import or other license); or other event outside the reasonable control of the obligated party. Both You and we will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, the affected order(s) will be terminated for convenience unless the parties otherwise agree in writing. This Section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or Your obligation to pay for the Services.

14. UCITA

The Uniform Computer Information Transactions Act does not apply to this Agreement or to orders placed under it.

15. NOTICE

15.1 Any notice required under this Agreement shall be provided to the other party in writing. If You have a legal dispute with us or if You wish to provide a notice under the Indemnification Section of this Agreement, or if You become subject to insolvency or other similar legal proceedings, You will promptly send written notice to: Oracle America, Inc., 500 Oracle Parkway, Redwood Shores, CA 94065, Attention: General Counsel, Legal Department.

15.2 We may give notices applicable to our Services customers by means of a general notice on the Oracle portal for the Services, and notices specific to You by electronic mail to Your e-mail address on record in our account information or by written communication sent by first class mail or pre-paid post to Your address on record in our account information.

16. ASSIGNMENT

You may not assign this Agreement or give or transfer the Services, or any interest in the Services, to another individual or entity.

17. OTHER

17.1 We are an independent contractor, and each party agrees that no partnership, joint venture, or agency relationship exists between the parties.

17.2 Our business partners and other third parties, including any third parties with which the Services have integrations or that are retained by You to provide consulting services, implementation services or applications that interact with the Services, are independent of Oracle and are not Oracle's agents. We are not liable for, bound by, or responsible for any problems with the Services or Your Content arising due to any acts of any such business partner or third party, unless the business partner or third party is providing Services as our subcontractor on an engagement ordered under this Agreement and, if so, then only to the same extent as we would be responsible for our resources under this Agreement.

17.3 If any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with another term consistent with the purpose and intent of this Agreement.

17.4 Except for actions for nonpayment or breach of Oracle's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than two years after the cause of action has accrued.

17.5 Prior to entering into an order governed by this Agreement, You are solely responsible for determining whether the Services meet Your technical, business or regulatory requirements. Oracle will cooperate with Your efforts to determine whether use of the standard Services are consistent with those requirements. Additional fees may apply to any additional work performed by Oracle or changes to the Services. You remain solely responsible for Your regulatory compliance in connection with Your use of the Services.

17.6 Upon forty-five (45) days written notice and no more than once every twelve (12) months, Oracle may audit Your use of the Cloud Services to ensure Your use of the Cloud Services is in compliance with the terms of the applicable order and this Agreement. Any such audit shall not unreasonably interfere with Your normal business operations. Any such audit shall not unreasonably interfere with Your normal business operations. Oracle shall comply with reasonable security and safety rules, policies, and procedures ("security rules") while performing any such audit, provided that (i) such security rules are applicable to the performance of the audit; (ii) You make such security rules available to Oracle prior to the commencement of the audit; and (iii) such security rules do not modify or amend the terms and conditions of this Agreement or the applicable order(s).

You agree to cooperate with Oracle's audit and to provide reasonable assistance and access to information reasonably requested by Oracle.

The performance of the audit and non-public data obtained during the audit (including findings or reports that result from the audit) shall be subject to the provisions of section 4 (Nondisclosure) of this Agreement.

Any usage in excess of Your rights under the applicable order(s) shall be considered a change to the scope of services of the applicable order(s) and You shall be responsible for paying the additional fees related to use of the Services in excess of Your rights. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

18. ENTIRE AGREEMENT

18.1 You agree that this Agreement and the information which is incorporated into this Agreement by written reference (including reference to information contained in a URL or referenced policy), together with the applicable order, is the complete agreement for the Services ordered by You and supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Services.

18.2 It is expressly agreed that the terms of this Agreement and any Oracle order shall supersede the terms in any purchase order, procurement internet portal, or other similar non-Oracle document and no terms included in any such purchase order, portal, or other non-Oracle document shall apply to the Services ordered. In the event of any inconsistencies between the terms of an order and the Agreement, the order shall take precedence; however, unless expressly stated otherwise in an order, the terms of the Data Processing Agreement shall take precedence over any inconsistent terms in an order. This Agreement and orders hereunder may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online by authorized representatives of You and of Oracle; however, Oracle may update the Service Specifications, including by posting updated documents on Oracle's websites. No third party beneficiary relationships are created by this Agreement.

19. AGREEMENT DEFINITIONS

19.1 **"Oracle Software"** means any software agent, application or tool that Oracle makes available to You for download specifically for purposes of facilitating Your access to, operation of, and/or use with, the Services.

19.2 **"Program Documentation"** refers to the user manuals, help windows, readme files for the Services and any Oracle Software. You may access the documentation online at <http://oracle.com/contracts> or such other address specified by Oracle.

19.3 **"Service Specifications"** means the following documents, as applicable to the Services under Your order: (a) the Oracle Cloud Hosting and Delivery Policies, the Program Documentation, the Oracle service descriptions, and the Data Processing Agreement described in this Agreement; (b) Oracle's privacy policies; and (c) any other Oracle documents that are referenced in or incorporated into Your order. The following do not apply to any non-Cloud Oracle service offerings acquired in Your order, such as professional services: the Oracle Cloud Hosting and Delivery Policies and Program Documentation. The following do not apply to any Oracle Software: the Oracle Cloud Hosting and Delivery Policies, Oracle service descriptions, and the Data Processing Agreement.

19.4 **"Third Party Content"** means all software, data, text, images, audio, video, photographs and other content and material, in any format, that are obtained or derived from third party sources outside of Oracle that You may access through, within, or in conjunction with Your use of, the Services. Examples of Third Party Content include data feeds from social network services, rss feeds from blog posts, Oracle data marketplaces and libraries, dictionaries, and marketing data. Third Party Content includes third-party sourced materials accessed or obtained by Your use of the Services or any Oracle-provided tools.

19.5 **"Users"** means, for Services, those employees, contractors, and end users, as applicable, authorized by You or on Your behalf to use the Services in accordance with this Agreement and Your order. For Services that are specifically designed to allow Your clients, agents, customers, suppliers or other third parties to access the Services to interact with You, such third parties will be considered "Users" subject to the terms of this Agreement and Your order.

19.6 **"Your Content"** means all software, data (including Personal Data), text, images, audio, video, photographs, non-Oracle or third party applications, and other content and material, in any format, provided by

You or any of Your Users that is stored in, or run on or through, the Services. Services under this Agreement, Oracle Software, other Oracle products and services, and Oracle intellectual property, and all derivative works thereof, do not fall within the meaning of the term "Your Content." Your Content includes any Third Party Content that is brought by You into the Services by Your use of the Services or any Oracle-provided tools.

20. CLOUD SERVICES AGREEMENT EFFECTIVE DATE

The Effective Date of this Agreement is _____. (DATE TO BE COMPLETED BY ORACLE)

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. THE SIGNATURE BLOCK FOR THIS AGREEMENT FOLLOWS IMMEDIATELY ON THE NEXT PAGE.

City Of Arcadia, CA

Oracle America, Inc.

Authorized Signature: _____

Authorized Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Signature Date: _____

Signature Date: _____

Agreement No.: US-CSA-CPQ-2767637

Teller Software as a Service Agreement

This is the Teller Software as a Service Agreement (“**Agreement**”) dated as of <date> (the “**Effective Date**”) between Can/Am Technologies Inc. (“**CanAm**”) a company incorporated under the laws of Colorado, having its principal place of business at 1819 Denver West Dr, Suite 225, Lakewood, CO 80401 and <Client Name> <State>, having its principal place of business at <Client Address> (hereinafter referred as “**Client**”).

RECITALS

1. Pursuant to the terms of this Agreement, CanAm will provide a web-based system to manage point of sale processes for Client.
2. This system assists Client in managing revenue intake from cashiering to balancing, providing reconciliation workflows, and is intended to provide Client with reporting and visibility into financial transactions, increasing the accountability and transparency of financial management for Client.

AGREEMENT

Client and CanAm agree as follows:

1. DEFINITIONS

- 1.1. Agreement – this document and all schedules attached or incorporated by reference, and any subsequent addendums or amendments made in accordance with the provisions hereof.
- 1.2. Annual Software as a Service Fee – the annual fee payable by Client (either to CanAm directly or to an authorized CanAm reseller, as applicable) for the use of Teller software, including Teller support services, including releases, and Hosting Services provided by CanAm under this Agreement.
- 1.3. Concurrent User – means the users who are logged on at the same time and sharing a finite number of licenses.
- 1.4. Confidential Information – has the meaning set out in section 13 of this Agreement.
- 1.5. Configuration(s) – all work required to configure Teller to reflect the business rules, workflow, security and data requirements of Client. Configuration includes any custom reports, Interfaces, Plugins, and conversion scripts developed for Client.
- 1.6. Defect – a program error that will cause Teller to crash, or program algorithms or logic that produce incorrect results. Defects pertain to the intended operation of Teller as delivered to Client, but do not pertain to subsequent errors brought about by Infrastructure changes made by Client or any other Third-Party. Defects do not include changing user preferences, report or screen aesthetics, presentation standards, or validity of converted data. Defects do not pertain to problems arising from Third-Party Software interfaced to Teller, or to problems arising from Teller Configurations not developed by CanAm.
- 1.7. Enhancement – any work requested by Client to alter existing Teller features, or to add any new features or functions to Teller software.
- 1.8. Force Majeure – circumstances beyond a Party’s reasonable control, including, without limitation, acts of God, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, pandemics, unavailability or interruption in telecommunications or Third-Party services, virus attacks or hackers, failure of Third-Party Software, or inability to obtain power used in or equipment needed for provision of the Services.
- 1.9. Hosting Services – the services provided at the Third-Party hosting facility that are provided by CanAm to Client.
- 1.10. Hosting Services Site – the Third-Party hosting facility, at a U.S. location of CanAm’s choice, at which servers and related equipment are located.

- 1.11. Hosting SLA – the Hosting Service Level Agreement as provided in Exhibit B, and any subsequent addendums or amendments made in accordance with the provisions herein.
- 1.12. Client Infrastructure – any Client owned, leased, or licensed information technology hardware and/or software that is required by Client to perform business functions. This hardware and/or software can be providing the infrastructure needed to perform these functions or can also be used as a gateway to an external, non-client owned, infrastructure that provides the necessary business functions.
- 1.13. Deliverables – the services deliverables, documentation and defined milestone objectives set forth in a Statement of Work. For greater certainty, Deliverables shall not include any Third-Party Software or related documentation licensed directly to Client from a Third-Party, or any modifications or enhancements thereto or derivatives thereof.
- 1.14. Intellectual Property – property that derives from the work of the mind or intellect, specifically, an idea, invention, trade secret, process, program, data, formula, patent, copyright, or trademark or application, right, or registration. Intellectual Property includes: a) Teller pre-existing software, or pre-existing software Configurations (including reports) of CanAm; b) CanAm methodologies, processes, tools, and general knowledge of the matters under consideration; and c) any pre-existing or newly-acquired material provided to Client by CanAm under separate license.
- 1.15. Interface – a connection with Third Party Software or hardware used to deliver a unified end user experience.
- 1.16. Named User – an individual internal to Client who has access to the Teller Production Database. A Named User may access the Teller Production Database from any workstation on Client's network or intranet, or via the Internet.
- 1.17. Party or Parties – referring to CanAm or Client or both.
- 1.18. Plugin – additional functionality that extends core Teller features. Plugins may be added to Teller to permit additional functionality. Licensed Plugins are fully supported and may have their own release cycle separate from the Teller product release cycle.
- 1.19. Production Environment – the environment provided to Client for end user official business use.
- 1.20. Release(s) – update to Teller issued by CanAm to general availability for Teller Clients.
- 1.21. Response Time – the target time for CanAm to respond to Critical, High, Medium and Low support requests (as defined in Section 6.3 of this Agreement).
- 1.22. Service(s) – the professional services to be provided pursuant to the Statement of Work (Exhibit C) or other written request.
- 1.23. Source Code – any and all program code or database definitions developed by CanAm programmers using a formal programming language and used by Teller software.
- 1.24. Specifications – means the requirements of the Deliverables as set forth in the Statement of Work (Exhibit C) or an amendment to this Agreement.
- 1.25. Statement of Work (SOW) – a document that describes the implementation services, software products, and other deliverables to be provided by CanAm (including its subcontractors if applicable) to Client under this Agreement. The Statement of Work is attached to this Agreement as Exhibit C.
- 1.26. Teller – an enterprise Point of Sale system that manages revenue intake from cashiering to balancing and reconciliation workflows in a single integrated database. Teller includes the reports and documentation that come with the Teller software.
- 1.27. Teller Annual Software as a Service Agreement – the document (i.e., this Agreement) which provides the terms and conditions under which the right to use Teller is provided to Client.
- 1.28. Teller System – a pre-existing set of Configurations that extends Teller by providing functionality specific to a business area.
- 1.29. Test Environment – the environment set up by CanAm to provide testing and training capability for Client.
- 1.30. Third-Party – a person, corporation, organization or entity other than Client or CanAm.

- 1.31. Third-Party Software – any identifiable product embedded in and/or linked to Teller software, but to which the proprietary rights belong to an independent Third-Party.

2. SCOPE OF AGREEMENT

- 2.1. By this Agreement, CanAm agrees to provide Client with a single Annual Subscription Software License to use the Teller System in the Production Environment at the edition specified in Exhibit A. This License includes the number of Interfaces, Concurrent Users, and/or Named Users identified in Exhibit A and subsequent purchase orders.
- 2.2. Client and CanAm agree that CanAm may opt to permit the use of this Agreement by broader public sector entities to procure Teller Software as a Service according to the terms and conditions of this Agreement as follows:

"Broader Public Sector Entities" means other political subdivisions, municipalities, tax-supported agencies and non-profit entities in the United States, including all local and state government agencies, academic institutions, school boards, special districts and any other public entities as acknowledged by the Federal government and any other public entities as agreed by Client.

With respect to purchases by Broader Public Sector entities, Can/Am acknowledges that such Broader Public Sector Entities shall make purchases in their own name, make payments directly to CanAm, and shall be liable directly to CanAm, holding Client harmless.

3. TERM OF AGREEMENT

- 3.1. This Agreement will remain in effect for a period of one (1) year from signing and will be renewed annually thereafter upon payment by Client of the Annual Software as a Service Fee within thirty (30) days of receipt of the renewal invoice, unless otherwise revised or terminated under the provisions of this Agreement. Each annual renewal invoice will be issued thirty (30) days prior to renewal.

4. GRANT OF LICENSE

- 4.1. This Agreement provides Client with a non-exclusive and non-revocable license for Teller as identified in Exhibit A of this Agreement. This license will be effective for as long as this Agreement is in place and Client remains current with payment of their Annual Software as a Service Fee.
- 4.2. Client is licensed to use Teller in one (1) Test Environment and one (1) Production Environment at CanAm hosting site.
- 4.3. Client is licensed to use Teller only for processing transactions associated with Client's internal business or public purposes. Any other use of Teller by Client is not permitted.

5. SOFTWARE AS A SERVICE LICENSE FEE

- 5.1. Client agrees to pay an Annual Software as a Service Fee as specified in Exhibit A for license rights to Teller and for associated Teller support and Teller Hosting Services. The first year of the Teller Software as a Service Fee is billable upon execution of this agreement.
- 5.2. Client may subsequently add licenses and users throughout the Term for an additional price as set out in Exhibit A.
- 5.3. The Annual Software as a Service Fee does not include Configuration. CanAm may provide these Services for additional charge under a SOW or directly as professional services for the time and materials hourly rate established in Exhibit A.
- 5.4. Client agrees to remit payment annually within 30 calendar days of receipt of the invoice. CanAm reserves the right to charge Client one (1) per cent interest per month on the undisputed outstanding balance of any fees or expenses not paid with thirty (30) days of date of invoice.

6. SUPPORT SERVICES

- 6.1. CanAm agrees, during the term of this Agreement, to provide Teller support services in a timely and professional manner. CanAm will provide unlimited technical support for Client’s Teller support personnel described in Section 7.2 of this Agreement. Support pertains to Teller and licensed Teller Plugins.
- 6.2. The Teller support web site will be available 24 x 7 for submitting Client support requests. The Teller support desk will be staffed from 8:00 a.m. to 6:00 p.m. **Mountain Time**, Monday to Friday, excluding Colorado statutory holidays. Extended hours of coverage or on-call coverage outside of these working hours can be provided at additional rates per Section 8.
- 6.3. When Client submits a support request through the Teller support web site during normal CanAm hours for support, as specified in Section 6.2 of this Agreement, CanAm and Client will categorize, and CanAm will escalate as appropriate, the support request according to the following criteria. To ensure the listed Response Time, Client must call the provided Teller support toll-free number to report or confirm Critical and High priority issues.

Severity	Definition	Response Time	Resolution Time
Critical	Client site is down. Major impact to operations of Client site.	< 15 minutes	Immediate and ongoing effort, with daily reporting to Client as necessary until a work-around or fix has been provided.
High	Major impairment of at least one important function at Client site. Operations at Client site are impacted. All important Client functions are working albeit with extra work.	< 1 hour	Proceed with fix as high priority work with reporting to Client as necessary until a work-around or fix has been provided.
Medium	Client Operations not significantly impacted. One or more minor Client functions not working. Major usability irritations impacting many staff at Client.	< 4 hours	Proceed with fix as medium priority work, according to schedule set by CanAm.
Low	Minor usability irritations. Work-around exists.	< 2 business days	Proceed with fix as low priority work, according to schedule set by CanAm

- 6.4. The Software as a Service Fee does NOT include technical support for Configurations and Third-Party Software not embedded within Teller, such as (but not limited to) operating system software and Microsoft Office products. Technical support for Teller related Third-Party hardware that may be used by Client, including scanners, printers, credit terminals, and other hardware peripherals is also not included.
- 6.5. CanAm will not begin charging Client for resolution of a non-Teller related problem until CanAm demonstrates to Client that the source of the problem is not related to a Teller Defect and Client has authorized work to resolve the issue. No time will be charged to Client for Teller Defects reported to CanAm.
- 6.6. Unless otherwise specified, Teller product warranty and support activities will be conducted at and deployed remotely. Travel and living expenses to provide on-site services deemed by CanAm at its sole discretion as required to repair a Teller Defect will not be charged to Client.

7. CLIENT OBLIGATIONS AND RESPONSIBILITIES

Unless otherwise stated in a separate agreement between the parties or in a Schedule of this Agreement, the following tasks will be the sole responsibility of Client:

- 7.1. **Infrastructure Support** –managing the local Internet Service Provider (ISP) providing Client its internet connection and/or its wireless service; managing its own networks; managing all desktop and mobile hardware for Client staff and implementing its own security policies and procedures.
- 7.2. **First-Line Teller Support** – Client is responsible for providing first-line Teller support to Client staff. First-line Teller Client support is responsible for researching issues and assessing if they are the result of a Teller Defect. Client will identify a limited number of Client staff entitled to submit Teller support requests.
- 7.3. **Future Releases** – Client acknowledges that future Releases of Teller software may require different or additional Client equipment and/or software in order to function properly. CanAm will provide Client with sufficient notification of such requirements. Client will be responsible to fund, acquire, install, and maintain such different or additional equipment and/or software.

8. PROFESSIONAL SERVICES

- 8.1. At the request of Client, CanAm may provide any or all of the following professional services: development of custom Configurations, report development, training, extended warranty, first line Teller support, and any other consulting activity. CanAm professional services may be purchased for an all-inclusive fixed-cost, or on a time-and-materials basis. All time and materials services will be approved in advance by the Client in a mutually agreed Statement of Work or other written request, and invoiced monthly based on the rates specified in Exhibit A. For fixed-cost services, all terms, conditions and costs will be specified in a mutually agreed Statement of Work.
- 8.2. CanAm will perform the Services and provide the deliverables that are described in each Statement of Work in accordance with the terms of the SOW and this Agreement, for the price and in accordance with the delivery dates and Specifications described in the Statement of Work.

9. PAYMENT FOR SERVICES

- 9.1. Client will pay (either to CanAm directly or to an authorized CanAm reseller, as applicable) the fees set out in the Statement of Work, plus all applicable taxes, upon acceptance of deliverables specified in the Statement of Work, subject to receipt of invoices from CanAm.
- 9.2. CanAm will submit invoices and other supporting documentation which may be required by Client describing the Services and deliverables for which payment is claimed.
- 9.3. Client will pay, without set-off or deduction, each invoice or undisputed portion of an invoice within thirty (30) days from receipt of the invoice. Any disputes will be resolved according to the dispute resolution process set out in Section 17 of this Agreement. CanAm reserves the right to charge Client one (1) per cent interest per month on any undisputed outstanding balance of any fees or expenses not paid within thirty (30) days of date of invoice.

10. SOURCE CODE

- 10.1. This license will provide Client with run-time only capability for Teller as described in Section 2 of this Agreement.
- 10.2. Source code (metadata) to custom Configurations, reports, and specialized code developed specifically for Client will be provided to Client upon request.

11. REPRESENTATIONS AND WARRANTIES

- 11.1. CanAm will repair Teller Defects reported by Client during the term of this Agreement at no additional charge to Client. CanAm will make all reasonable efforts to resolve Defects quickly, via a patch Release if necessary.
- 11.2. The warranty on all CanAm-developed custom Configuration is defined in the applicable SOW. Subject to clause 11.4, standard Interfaces are warranted. Material changes to the Client environment may require additional fee-based work.
- 11.3. CanAm does not provide warranty for any custom Configuration or custom code not developed by CanAm, or developed by CanAm and subsequently altered by Client or any Third-Party.
- 11.4. CanAm warrants that it has full power and authority to grant this Teller license and that as of the effective date of this Agreement, the Teller software does not infringe on any existing Intellectual Property rights of any Third Party. If a claim of infringement is made by any Third Party, CanAm may, at its sole option either:
- a) secure for CLIENT the right to continue using the Teller software; or
 - b) modify the Teller software so that it does not infringe.
- This represents Client's sole and exclusive remedy with respect to this warranty.
- 11.5. CanAm has no obligation for any claim of infringement based on a Client or Third Party modified version of the Teller software or based on the combination of the Teller software with any Third Party product not provided by CanAm. CanAm provides no warranty whatsoever for any Third Party software or hardware products.
- 11.6. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CANAM AND ITS LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, WHETHER ARISING BY STATUTE OR IN LAW OR AS A RESULT OF A COURSE OF DEALING OR TRADE USAGE.
- 11.7. THIS SECTION 11 SETS OUT THE SOLE AND EXCLUSIVE REMEDY WHICH APPLIES OR SHALL APPLY TO TELLER AND THE SERVICES. NO ORAL OR VERBAL ADVICE OR INFORMATION GIVEN BY EITHER PARTY, THEIR AFFILIATES OR ITS OR THEIR AGENTS, SERVANTS, EMPLOYEES, OR REPRESENTATIVES, SHALL CREATE A DIFFERENT OR GREATER WARRANTY, AND THE PARTIES ACKNOWLEDGES THAT IT MAY NOT RELY UPON ANY SUCH ORAL OR WRITTEN COMMUNICATIONS TO CREATE OR ESTABLISH WARRANTY RIGHTS IN EXCESS OF THE SOLE AND EXCLUSIVE WARRANTY HEREIN.

12. OWNERSHIP OF SOFTWARE AND DATA

- 12.1. CanAm has exclusive licensing and distribution rights for Teller software (Copyright © 2004 – 2022, all rights reserved), including Teller; licensed Teller Plugins, and licensed Teller Interfaces within the United States of America and Canada. Client will not remove any ownership or copyright notices from Teller software or documentation. Reproduction, disassembly, decompilation, transfer, reverse engineering, or disclosure to others, in whole or in part, of Teller is strictly prohibited.
- 12.2. CanAm is, and will remain, the exclusive owner, or is the authorized agent of the owner of Teller proprietary information, and all patent, copyright, trade secret, trademark, and other Intellectual Property rights remain solely with CanAm. No license or conveyance of any such rights to Client is granted or implied under this Agreement.
- 12.3. CanAm will retain ownership of the Intellectual Property associated with Enhancements or Interfaces developed by CanAm for Client.
- 12.4. Client is deemed to own any custom Configuration for their Teller installation. Client grants CanAm a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, sublicense,

modify, and sell the custom Configuration developed pursuant to this Agreement without compensation to Client.

- 12.5. Notwithstanding anything to the contrary herein, each Party and its respective personnel and contractors shall be free to use and employ its and their general skills, know-how, pre-existing IP and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any Confidential Information of the other Party.
- 12.6. Client may not sell, rent, lease, give, distribute, assign, pledge, sublicense, loan, timeshare, or otherwise transfer Teller software or documentation to any other Party. Client agrees not to distribute Teller as part of any other software product, commercial or otherwise, without the prior written approval of CanAm.
- 12.7. Client will retain sole and complete ownership of its data at all times, regardless of the location of the data, and CanAm may not make any use of Client data other than for testing and Service delivery purposes, without the prior written consent of Client.

13. CONFIDENTIAL AND PROPRIETARY INFORMATION

- 13.1. Each Party will hold in confidence, and will not disclose to any unauthorized personnel, any confidential or proprietary information of the other Party. Each Party will use such confidential or proprietary information only for the purpose for which it was disclosed.
- 13.2. As used in this Agreement, the term “confidential or proprietary information” (“Confidential Information”) means all trade secrets or proprietary information designated as such in writing by one Party to the other. All software code in source or object format will be deemed to be proprietary information regardless of whether it is marked as such. Information which is orally or visually disclosed by one Party to the other, or is disclosed in writing without an appropriate letter, proprietary stamp or legend, will constitute proprietary information of the releasing Party if:
 - a) it would be apparent to a reasonable person, familiar with the business of the releasing Party and the industry in which it operates, that such information is of a confidential or proprietary nature; or
 - b) The releasing Party, within thirty (30) calendar days after such disclosure, delivers to the receiving Party a written document describing such information and referencing the place and date of such oral, visual, or written disclosure, and the names of receiving Party personnel to whom such disclosure was made.
- 13.3. Each Party will only disclose Confidential Information received by it under this Agreement to personnel who have a need to know such Confidential Information for the performance of its duties and who are bound by an agreement to protect the confidentiality of such Confidential Information.
- 13.4. Each Party will adopt and maintain programs and procedures which are reasonably calculated to protect Confidential Information, and will be responsible to the other Party for any disclosure or misuse of Confidential Information which results from a failure to comply with this provision. Each Party will promptly report to the other Party any actual or suspected violation of the terms of this Agreement and will take all reasonable further steps requested by the offended Party to prevent, control, or remedy any such violation.
- 13.5. The obligations of each Party specified above will not apply with respect to any Confidential Information, if the receiving Party can demonstrate, by reasonable evidence, that such Confidential Information:
 - a) was generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the receiving Party;
 - b) was already in the possession of the receiving Party at the time of disclosure;
 - c) becomes known to the receiving Party through disclosure by sources having the legal right to disclose such Confidential Information;
 - d) was independently developed by the receiving Party without reference to, or reliance upon, the Confidential Information; or

- e) was required to be disclosed by the receiving Party to comply with applicable laws or governmental regulations, provided that the receiving Party provides prompt written notice of such disclosure to the offended Party and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure and, if possible, ensure that the confidentiality obligations of this Agreement are maintained.
- 13.6. If Client is subject to freedom of information legislation CanAm agrees to adhere to the standards outlined in such legislation regarding protection of privacy and disclosure of records with respect to all work done for Client pursuant to this Agreement.
- 13.7. Upon termination of this Agreement, each Party will make all reasonable efforts to return to the other Party all tangible manifestations, and all copies thereof, of Confidential Information received by the other Party under this Agreement, if requested to do so by the disclosing Party. In addition, each Party shall certify in writing that it has not retained any copies of any materials belonging to or furnished by the other Party, and that any software provided by the other Party pursuant hereto has been deleted from that Party's computer and no copies have been retained in any form. The foregoing obligation shall not apply to Confidential Information that: (i) a Party deems necessary to retain to comply with applicable laws and regulations; and (ii) exists only as part of regularly generated electronic backup data, destruction of which is not reasonably practicable.

14. LIMITATIONS OF LIABILITY AND INDEMNITY

- 14.1. CANAM'S MAXIMUM TOTAL LIABILITY FOR ANY ACTION, CLAIM, LOSS OR DAMAGE ARISING OUT OF TELLER AND THE PERFORMANCE OF ANY SERVICES IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, CLAIM, LOSS OR DAMAGE, BE IT CONTRACT, TORT, STATUTE OR OTHERWISE, SHALL BE AN AWARD FOR DIRECT PROVABLE DAMAGES THAT IN NO EVENT EXCEED THE AGGREGATE OF THE AMOUNTS PAYABLE TO CANAM UNDER THE TERM OF THIS AGREEMENT IN THE SIX (6) MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM.
- 14.2. CLIENT SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THAT UNDER NO CIRCUMSTANCES WHATSOEVER WILL CANAM BE LIABLE FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE OR KIND, OR ANY LOSS RESULTING FROM BUSINESS DISRUPTION ARISING FROM THE USE OF TELLER, OR FROM ANY SERVICES COVERED UNDER THE TERMS OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IN THE EVENT THAT CANAM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 14.3. Subject to Section 14.1 and 14.2, CanAm will indemnify and hold harmless Client and its affiliates, employees and agents from and against any and all liabilities, losses, damages, costs, and other expenses (including attorneys' and expert witnesses' costs and fees) arising from or relating to any Third Party claim caused by the intentional misconduct or gross negligence of CanAm or any of its employees, agents or subcontractors in performing the Services.
- 14.4. Notwithstanding anything stated in this Agreement to the contrary, and to the extent that under the express terms of this Agreement or any other agreement then in effect between the Parties, neither Party will be liable under any provision under this Section if any patent, copyright, or trade secret infringement or any other claim is based upon or caused by the following: (i) a use for which the Services were not designed or specified; (ii) design specifications or any data, information, drawings, manuals, script, etc., provided from one Party to the other, which has resulted in the infringement action; (iii) the combination, operation or use of the Services with any other product or services, to the extent that such combination, operation, or use results in the loss, damage, claim or expense in question; and/or (iv) use of a superseded release of licensed software if the infringement would have been avoided by the use of a current release of the licensed software. Should any claim of infringement be made based upon (i) through (iv) above, the infringing party and its affiliates shall be indemnified and held harmless for all costs, expenses, loss, damage or liability arising therefrom.

14.5. In the event of a Third Party claim for which Client is or may be entitled to indemnification hereunder, CanAm will assume the defense at CanAm's sole expense. CanAm will consult with Client regarding any settlement of any Third Party Claim but shall not be required to receive Client's consent to settle any such claim. Notwithstanding the foregoing, Client is entitled to be represented in any such action, suit, or proceeding at its own expense and by counsel of its choice.

15. TERMINATION AND DEFAULT CONDITIONS

15.1. CanAm may terminate this Agreement if: Client fails to make required payments within 90 days of due date, Client materially fails to fulfill its obligations and responsibilities or breaches any material term of this Agreement, Client becomes bankrupt or insolvent, or if a receiver is appointed to manage the property and assets of Client. If any of the above conditions are encountered, CanAm will provide written notice to Client and provide 30 calendar days for Client to remedy the default. If the default is not rectified within 30 calendar days, CanAm will have cause to terminate this Agreement.

15.2. Client may terminate this Agreement if: CanAm materially fails to fulfill its obligations and responsibilities or breaches any material term of this Agreement, CanAm becomes bankrupt or insolvent, or if a receiver is appointed to manage the property and assets of CanAm. If any of the above conditions are encountered, Client will provide written notice to CanAm and provide 30 calendar days for CanAm to remedy the default. If the default is not rectified within 30 calendar days, Client will have cause to terminate this Agreement.

15.3. Termination of this Agreement will not affect the provisions of this Agreement relating to the payment of amounts due under Section 5; Software as a Service License Fees, Section 14; Limitation of Liability and Indemnity, Section 13; Confidentiality; or any other obligations of the parties which by their nature are intended to survive termination of this Agreement.

16. RIGHTS AND OBLIGATIONS

16.1. If either CanAm or Client terminates this Agreement, CanAm will retain all fees for Services delivered to Client up to the date of termination. CanAm will refund a pro-rated portion of the Annual Software as a Service Fee to Client, based on the number of full or partial calendar months of service provided under the Agreement since the last annual renewal date.

16.2. Any termination by either Party as provided in this Agreement will not in any way operate to deny any right or remedy of the other Party, either at law or in equity, or to relieve a Party of any obligation to pay the sums due under this Agreement, or of any other obligation accrued prior to the effective date of termination.

16.3. Upon termination of this Agreement, Client agrees to cease any and all operational use of Teller and further agrees to delete all Teller software from the Client Infrastructure. CanAm agrees to make reasonable provision for an extract of Client's operational data from Client's Production Environment if requested by Client.

16.4. Teller is subject to the export control laws of the United States and other countries. Client may not export or re-export Teller software without the appropriate United States and foreign government licenses. Client must comply with all applicable export control laws and will defend, indemnify and hold CanAm harmless from any claims arising from Client's violation of such export control laws.

17. DISPUTES

17.1. CanAm and Client will both separately and jointly use diligent efforts to establish positive and ongoing communications both within and between their respective organizations. Key personnel within CanAm and Client will communicate regularly in order to review the status and priorities for the provision of services by CanAm and Client.

17.2. In the event of any dispute arising between CanAm and Client with respect to their rights and obligations under this Agreement, the Party feeling itself aggrieved will notify the other Party of the substance in

writing of such grievance. Both parties agree to work in good faith and make all reasonable efforts to resolve the dispute, including, if necessary, escalating the dispute to:

- First level: the Project Manager of CanAm and the Project Manager for Client; and
- Second level: the President/CEO of CanAm and the Chief Executive for Client.

17.3. In the event the grievance cannot be resolved to the mutual satisfaction of the parties within 30 calendar days, the Party feeling itself aggrieved may request mediation, based on the then-current commercial mediation rules of the American Arbitration Association. The award of the mediation body will be non-binding upon CanAm and Client.

18. RELATIONSHIP OF THE PARTIES

18.1. Each of the Parties is an independent contractor. Nothing herein shall be construed to place the Parties in a relationship of principal and agent, partners or joint venturers, and neither Party shall have the power to obligate or bind the other Party in any manner whatsoever.

19. WAIVER

19.1. No failure or delay on the part of either Party to exercise any right or remedy hereunder will operate as a waiver of such right or remedy.

20. ASSIGNMENT AND SUCCESSION

20.1. This Agreement, including all of its rights and obligations created hereunder, shall not be assigned or transferred in any manner whatsoever (except upon transfer of majority ownership of a Party's business by merger, or consolidation, in which case the Agreement may be assigned to the succeeding owner) unless with the prior written consent of the opposite Party signed by an officer thereof, which consent will not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

21. NON SOLICITATION

21.1. Client agrees that for the duration of this Agreement, and for a period of one (1) year from the date of termination of this Agreement (or the date of termination of the final SOW if that date is later), it will not on its own behalf or on behalf of any other person or entity: (a) initiate contact for the purposes of hiring or contracting the service of, or (b) directly or indirectly solicit or induce for employment, or otherwise offer to hire or contract the services of, any employee, contractor or agent of CanAm who is directly related to the provision of services hereunder. Notwithstanding the foregoing, the provisions of this Section 21.1 shall not apply to the hiring of: (i) any individual who is hired as a result of responding to a general public "help wanted" type of solicitation by a Party; or (ii) any individual who, of his or her own volition, approaches, contacts, or solicits a Party for employment or other working arrangements and who such Party has not induced or solicited to make such approach, contact, or solicitation.

22. FORCE MAJEURE

22.1. Neither Party shall be under liability to each other by reason of non-performance or delay in performance of any obligation hereunder caused by Force Majeure, to the extent that non-performance or delay is attributable to such Force Majeure and only for the duration of the Force Majeure and the effect upon its ability to perform its obligation hereunder.

23. SEVERENCE

23.1. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision can be severed from this Agreement and all other provisions will remain in full force and effect.

24. INSURANCE

24.1. CanAm shall, at its own expense and without limiting liabilities under this Agreement, insure its operations under a contract of General Liability Insurance in an amount of not less than \$1,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage including loss of use thereof, and such other insurance as CanAm deems necessary in its sole discretion, to provide standard protections of its business.

24.2. CanAm shall provide Client with acceptable evidence of insurance upon request.

25. CURRENCY

25.1. Unless otherwise noted, all reference to payment amounts in this Agreement are in U.S. dollars.

26. GOVERNING LAW

26.1. This Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Colorado. The parties irrevocably attorn to the jurisdiction of the courts of the State of Colorado.

27. COUNTERPARTS

27.1. This Agreement may be executed in two or more counterparts, by facsimile or otherwise, each of which is an original, and all of which together constitute one and the same instrument, notwithstanding that all parties are not signatories to the same counterpart.

28. ENTIRE AGREEMENT

28.1. This Agreement, and any applicable attachments, SOWs, schedules, exhibits or other documents constitutes the entire agreement of the Parties with regard to the matters herein, and supersedes all other prior written or oral agreements, representations and other communications between the Parties. All terms of any order acknowledgement or other document provided by Client, including but not limited to any pre-printed terms thereon and any terms that are inconsistent, add to, or conflict with this Agreement, shall be null and void and of no legal force or effect. No modification of this Agreement is valid unless set out in writing by the Parties.

Can/Am Technologies, Inc.

<Client>

Signature

Signature

Name

Name

Title

Title

Date

Date

Exhibit A

Licensed Teller Modules, Interfaces and Users*

Description	Quantity

Annual Software as a Service Fees

License and all other fees are in US dollars and exclude any applicable taxes.

Time Period	Fee
Year 1	
Year 2	
Year 3	

Professional Services

All rates are in US dollars and exclude any applicable taxes.

Service	Rate
Professional Services Hours	\$185/hr

After year **one**, Annual Fees and the Professional Services Hourly rate will be subject to an annual increase equal to the increase in the Consumer Price Index during the preceding year. For planning purposes, the above pricing estimates the CPI increase at 4% annually. For clarity, in no event shall the Annual Fee or the Professional Services Hourly rate decrease. For purposes hereof "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers, U.S. City Average, published by the Bureau of Labor Statistics of the United States Department of Labor, All Items (1982-84=100).

Additional licenses and/or users may be added throughout the Term of this Agreement. The price for each added license and/or user will be pro-rated to the annual renewal date, itemized accordingly in an invoice, and henceforth included in the annual invoice.

Exhibit B

Hosting Service Level Agreement

1. OWNERSHIP OF DATA

- 1.1. Regardless of the location of the hosting facility, Client will retain sole and complete, legal and beneficial ownership of its data stored on the Hosting Services Site.
- 1.2. CanAm's responsibilities and rights regarding Client data are solely restricted to the provision of services described in this Hosting SLA. CanAm may not make any other uses of Client data for any reason whatsoever, without the express written consent of Client, unless ordered to release such data by a court of competent jurisdiction.
- 1.3. Client may request return of any or all of its data at any time, for any reason, and CanAm will provide such data within a reasonable period of time, in native format.

2. OVERVIEW OF HOSTING SERVICES

- 2.1. CanAm is committed to providing secure, reliable and dedicated Hosting Services to Client. For maximum protection and value to Client, CanAm will contract with Amazon AWS for provision of a hosting facility in the United States. The following Service Level Agreements apply to the Amazon Services being contracted:
 - <https://aws.amazon.com/s3/sla/>
 - <https://aws.amazon.com/ec2/sla/>
 - <https://aws.amazon.com/rds/sla/>
 - <https://aws.amazon.com/cloudwatch/sla/>
 - <https://aws.amazon.com/elasticloadbalancing/sla/>
 - <https://aws.amazon.com/guarddduty/sla/>
 - <https://aws.amazon.com/inspector/sla/>
 - <https://aws.amazon.com/directoryservice/sla/>
 - <https://aws.amazon.com/lambda/sla/>
 - <https://aws.amazon.com/vpn/site-to-site-vpn-sla/>
- 2.2. CanAm reserves the right to change hosting providers to an alternate service providing comparable functionality, and meeting the standards in this document.
- 2.3. All hosting services will be provisioned from data centers located within the United States.
- 2.4. In return for Annual Software as a Service Fee from Client, CanAm will provide the following services to Client:

Service	Description
Secure Hosting Site	A secure hosting facility with 24/7 security control.
Internet Service Providers	A facility with stable network connectivity across North America. Internet services will be routed through multiple independent carriers to eliminate single-carrier points of failure.
Data and Service Redundancy	Redundant storage across multiple zones providing failover in the event of a catastrophic failure at the primary hosting site.

Software	Operating System, Database and Virus Protection software as required to run the Teller environments. CanAm will keep systems secure by keeping them up-to-date on security patches and security audits, and all Third-Party critical updates will be applied in a timely manner following Third-Party vendor notification.
Teller Software Updates	CanAm will test and install into the Teller system at the Hosting Services Site all updates to the Teller system and Teller Interfaces for Client-specific emergency bug fixes, as well as all Teller point, maintenance and patch Releases which are made available during the term of this Agreement.
Performance Monitoring	CanAm will monitor the performance of systems at the Hosting Services Site, to maintain system stability and performance. CanAm will provide patch management, event log management and system tuning. CanAm will review system logs on a weekly or as-needed basis.
Data Backups	Securing Client data against loss is a key provision within the SLA. Full backups will be performed on a regular basis.

3. AVAILABILITY COMMITMENT, ISSUE TRACKING, AND REMEDIES

- 3.1. While the Hosting Services Site availability will generally be expected to be 24 x 7 (except for scheduled or critical outages), the commitment of CanAm is to provide Hosting Services site availability during CanAm business hours (8:00 am – 6:00 pm Monday through Friday Mountain Time) for 99.9% uptime or better in a calendar month. Credits may be claimed only against loss of Hosting Services during CanAm business hours.
- 3.2. If CanAm during regular Client business hours fails to provide Hosting Services availability, as defined below, in any given calendar month, CanAm will issue a credit towards future Hosting Service Fees in accordance with the following schedule:

Hosting Services Site Availability	Credit Percentage (of monthly fee)
99.9% to 100%	0%
98.0% to 99.8%	2.5%
97.0% to 97.9%	5%
95.0% to 96.9%	7.5%
90.0% to 95.0%	25%
Below 90.0%	100%

- 3.3. Can/Am will provide a monthly report identifying any downtime in the previous month. Downtime will be calculated to the minute from the time it is first detected (by our monitoring or by Client report) until service is restored, during the guaranteed availability time period defined in 3.1. Downtime percentage is calculated as: $\text{Minutes of Downtime} / (\text{Daily Guaranteed Availability Minutes} \times \text{Number of Business Days in Month} - \text{Emergency Outage Minutes})$. Credits will be applied to the next billing cycle.
- 3.4. The total amount credited to Client for any given month under this Hosting SLA will not exceed the total Annual Software as a Service fee paid by Client for such month for the affected service. Except in cases of gross negligence, client specifically acknowledges and confirms that under no circumstances whatsoever will CanAm be liable for any incidental, indirect, exemplary, special or consequential damages of any

nature or kind, or any loss resulting from business disruption arising from any services covered under the terms of this agreement, regardless of the form of action, whether in contract, tort (including negligence), strict product liability or otherwise, even in the event that CanAm has been advised of the possibility of such damages.

3.5. Client will not receive any credits under this Agreement in connection with any failure or deficiency of CanAm Hosting Services caused by:

- Scheduled Maintenance – Time allocated for scheduled monthly maintenance or critical updates of servers and other CanAm equipment will not be considered “down time” as used in the calculation of Hosting Services availability described in Section 3.2 of this Hosting SLA. Maintenance will be scheduled for outside of Client Business hours specified in Section 3.1 of this Hosting SLA. The schedule for regular monthly maintenance windows will be provided to the Client at least 4 weeks prior. Except for emergencies, maintenance outages will be communicated via e-mail to the Client at least 2 business days in advance of any such outage.
- Client Equipment – Client is solely responsible for maintaining all Client equipment not at the Hosting Services Site and for ensuring that such equipment is in proper working order, has the correct software installed, and has the ability to connect to the CanAm Hosting Services for the exchange of data.
- Client ISP Provider – Client is solely responsible for maintaining all Client connections with local Internet Service Providers (ISPs) and for resolving any problems that might arise with local ISP connections.
- Internet Outages – CanAm is not responsible for Internet outages (including ISP peering) that may make CanAm Hosting Services appear inaccessible when others can still access it.
- Client Acts or Omissions – including acts or omissions of others engaged or authorized by Client, including, without limitation, any negligence, willful misconduct, or use of the Hosting Services in breach of the terms and conditions of this Hosting SLA.
- Force Majeure



STAFF REPORT

Office of the City Manager

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Dominic Lazzaretto, City Manager
By: Justine Bruno, Deputy City Manager

SUBJECT: DESIGNATE COUNCIL MEMBER MICHAEL CAO AS THE VOTING DELEGATE AND COUNCIL MEMBER EILEEN WANG AS THE ALTERNATE VOTING DELEGATE FOR THE 2023 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

CEQA: Not a Project

Recommendation: Approve

SUMMARY

The League of California Cities (“Cal Cities”) Annual Conference is scheduled for September 20-22, 2023, in Sacramento. An important component of the conference is the annual General Assembly meeting, which is attended by member cities and will begin at 8:30 a.m. on Friday, September 22, 2023. Consistent with Cal Cities’ bylaws, a city’s Voting Delegate and up to two Alternates must be designated by City Council action. The Voting Delegates and Alternates are designated by the City Council to represent Arcadia and vote on resolutions that establish Cal Cities policy. Currently, Council Member Michael Cao and Council Member Eileen Wang are registered to attend the conference.

It is recommended that the City Council designate Council Member Michael Cao as the Voting Member and Council Member Eileen Wang as the Alternate for the 2023 League of California Cities Annual Conference.

DISCUSSION

To vote on behalf of Arcadia at the Annual General Assembly meeting, the City Council must select a Voting Delegate and up to two Alternate Voting Delegates. A city’s Voting Delegate and Alternates must be selected by City Council action and cannot be designated by individual action of the Mayor or City Manager alone. Arcadia must provide evidence of such action to Cal Cities by Monday, August 28, 2023. Due to the cancellation of the first City Council Meeting in August, this is the last meeting that the City Council can make these designations before the August 28 deadline. Once the delegates have

been approved, the Voting Delegate/Alternate Form will be forwarded to Cal Cities (see Attachment).

Resolutions are due 60 days before the beginning of the annual conference and are presented to members of the General Assembly for action. In prior years, member cities have submitted resolutions for consideration before voting delegates were selected. This allowed the entire City Council to consider any proposed resolutions together and provide some initial direction to the Voting Delegates. This year, there are no policy resolutions for consideration by the General Assembly; however, it is still possible that resolutions could be introduced during the conference for consideration. Any resolutions introduced during the conference will be left to the Voting Delegate to consider and take action upon.

Traditionally, voting delegates have been assigned by order and/or seniority on the City Council as well as by expressing an interest in attending the General Assembly session. Council Members Cao and Wang have registered to attend the Cal Cities Conference this year. Council Member Cao was recently appointed as Secretary to the Los Angeles Region of the League of California Cities and has expressed a specific interest in serving as the Voting Member for this conference.

ENVIRONMENTAL ANALYSIS

The proposed designation of voting delegates and alternates does not constitute a project under the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines, and it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA.

FISCAL IMPACT

There is no fiscal impact for selecting Voting Delegates. There is sufficient funding in the FY 2023-24 budget for three Council Members to attend the League of California Cities Annual Conference, in addition to other educational and professional pursuits.

RECOMMENDATION

It is recommended that the City Council determine this action does not constitute a project, and therefore, is exempt under the California Environmental Quality Act ("CEQA"); and designate Council Member Michael Cao as the Voting Delegate and Council Member Eileen Wang as the Alternate Voting Delegate for the 2023 League of California Cities Annual Conference.

Attachment: 2023 Annual Conference Voting Delegate/Alternate Form



Council Action Advised by August 28, 2023

DATE: Wednesday, June 21, 2023

TO: Mayors, Council Members, City Clerks, and City Managers

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference and Expo, Sept. 20-22, 2023,
Sacramento SAFE Credit Union Convention Center**

Every year, the League of California Cities convenes a member-driven General Assembly at the [Cal Cities Annual Conference and Expo](#). The General Assembly is an important opportunity where city officials can directly participate in the development of Cal Cities policy.

Taking place on Sept. 22, the General Assembly is comprised of voting delegates appointed by each member city; every city has one voting delegate. Your appointed voting delegate plays an important role during the General Assembly by representing your city and voting on resolutions.

To cast a vote during the General Assembly, your city must designate a voting delegate and up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity. Voting delegates may either be an elected or appointed official.

Please complete the attached voting delegate form and email it to Cal Cities office no later than Monday, August 28.

New this year, we will host a pre-conference information session for voting delegates to explain their role. Submitting your voting delegate form by the deadline will allow us time to establish voting delegate/alternate records prior to the conference and provide pre-conference communications with voting delegates.

Please view Cal Cities' [event and meeting policy](#) in advance of the conference.

Action by Council Required. Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council.

Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.



Conference Registration Required. The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration is open on the [Cal Cities](#) website.

For a city to cast a vote, one voter must be present at the General Assembly and in possession of the voting delegate card and voting tool. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the voting delegate desk. This will enable them to receive the special sticker on their name badges that will admit the voting delegate into the voting area during the General Assembly.

Transferring Voting Card to Non-Designated Individuals Not Allowed. The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the General Assembly, they may *not* transfer the voting card to another city official.

Seating Protocol during General Assembly. At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.

The voting delegate desk, located in the conference registration area of the SAFE Credit Union Convention Center in Sacramento, will be open at the following times: Wednesday, Sept. 20, 8:00 a.m.- 6:00 p.m. and Thursday, Sept. 21, 7:30 a.m.- 4:00 p.m. On Friday, Sept. 22, the voting delegate desk will be open at the General Assembly, starting at 7:30 a.m., but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to Cal Cities office by Monday, Aug. 28. If you have questions, please contact Zach Seals at zseals@calcities.org.

Attachments:

- General Assembly Voting Guidelines
- Voting Delegate/Alternate Form
- Information Sheet: Cal Cities Resolutions and the General Assembly

General Assembly Voting Guidelines

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Cal Cities Annual Conference and Expo, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the voting delegate form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the voting delegate desk in the conference registration area. Voting delegates and alternates must sign in at the voting delegate desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the General Assembly.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the credentials committee at the voting delegate desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and voting tool; and be registered with the credentials committee. The voting card may be transferred freely between the voting delegate and alternates but may not be transferred to another city official who is neither a voting delegate nor alternate.
6. **Voting Area at General Assembly.** At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.
7. **Resolving Disputes.** In case of dispute, the credentials committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the General Assembly.



CITY: _____

**2023 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to Cal Cities office by Monday, August 28, 2023. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

To vote at the General Assembly, voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the General Assembly. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the voting delegate desk.

1. VOTING DELEGATE

Name: _____

Email: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

Email: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

Email: _____

ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ Email: _____

Mayor or City Clerk: _____ Date: _____ Phone: _____
(circle one) (signature)

Please complete and email this form to votingdelegates@calcities.org by Monday, August 28, 2023.

How it works: Cal Cities Resolutions and the General Assembly

Developing League of California Cities policy is a dynamic process that engages a wide range of members to ensure that we are representing California cities with one voice. These policies directly guide Cal Cities advocacy to promote local decision-making, and lobby against statewide policy that erodes local control.

The resolutions process and General Assembly is one way that city officials can directly participate in the development of Cal Cities policy. If a resolution is approved at the General Assembly, it becomes official Cal Cities policy. Here's how Resolutions and the General Assembly works.

Prior to the Annual Conference and Expo

General Resolutions



Sixty days before the Annual Conference and Expo, Cal Cities members may submit policy proposals on issues of importance to cities. The resolution must have the concurrence of at least five additional member cities or individual members.



Policy Committees



The Cal Cities President assigns general resolutions to policy committees where members review, debate, and recommend positions for each policy proposal. Recommendations are forwarded to the Resolutions Committee.



During the Annual Conference and Expo

Petitioned Resolutions



The petitioned resolution is an alternate method to introduce policy proposals during the annual conference. The petition must be signed by



voting delegates from 10% of member cities, and submitted to the Cal Cities President at least 24 hours before the beginning of the General Assembly.

Resolutions Committee



The Resolutions Committee considers all resolutions. General Resolutions approved¹ by either a policy committee or the Resolutions Committee are next considered by the General Assembly. General resolutions not approved, or referred for further study by both a policy committee and the Resolutions Committee do not go the General Assembly. All Petitioned Resolutions are considered by the General Assembly, unless disqualified.²



General Assembly



During the General Assembly, voting delegates debate and consider general and petitioned resolutions forwarded by the Resolutions Committee. Potential Cal Cities bylaws amendments are also considered at this meeting.

Who's who

Cal Cities policy development is a member-informed process, grounded in the voices and experiences of city officials throughout the state.

The **Resolutions Committee** includes representatives from each Cal Cities diversity caucus, regional division, municipal department, policy committee, as well as individuals appointed by the Cal Cities president.

Voting delegates are appointed by each member city; every city has one voting delegate.

The **General Assembly** is a meeting of the collective body of all voting delegates — one from every member city.

Seven **Policy Committees** meet throughout the year to review and recommend positions to take on bills and regulatory proposals. Policy committees include members from each Cal Cities diversity caucus, regional division, municipal department, as well as individuals appointed by the Cal Cities president.

What's new in 2023?



- Voting delegates will receive increased communications to prepare them for their role during the General Assembly.
- The General Assembly will take place earlier to allow more time for debate and discussion.
- Improvements to the General Assembly process will make it easier for voting delegates to discuss and debate resolutions.

¹ The Resolution Committee can amend a general resolution prior to sending it to the General Assembly.

² Petitioned Resolutions may be disqualified by the Resolutions Committee according to Cal Cities Bylaws Article VI. Sec. 5(f).



STAFF REPORT

Office of the City Manager

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Dominic Lazzaretto, City Manager
By: Justine Bruno, Deputy City Manager

SUBJECT: CITY COUNCIL COMPENSATION ADJUSTMENT PURSUANT TO
ARCADIA CITY CHARTER SECTION 402

CEQA: Not a Project

Recommendation: Receive and file

SUMMARY

The Arcadia City Charter ties City Council compensation to the Government Code for General Law cities, which allows for compensation based on population thresholds. On June 29, 2023, Governor Newsom signed Senate Bill ("SB") 329 to increase the compensation for City Council Members in California. This item is being brought forward to notify the City Council that their monthly salary is changing from \$500 per month to \$1,600 per month in accordance with new state law and the Arcadia City Charter. It is recommended that the City Council receive and file this report on the adjusted City Council compensation.

DISCUSSION

Since 1984, state law has limited the maximum salary amount for City Council Members in California. While inflation has been significant over time, the cap has been unchanged for nearly 40 years. For many legislators, the existing cap was viewed as a barrier to achieving equitable participation and diverse representation in local government. On June 29, 2023, Governor Newsom signed SB 329 to lift the cap on the maximum pay for Council Members and allow City Councils to adjust their maximum pay to keep pace with inflation moving forward.

The Arcadia City Charter automatically adjusts compensation for City Council Members in accordance with Government Code Section 36516, which was amended by SB 329. This language is found in *Section 402. Compensation* of the Arcadia City Charter, which states:

Section 402. COMPENSATION. Compensation for Council Members is hereby set, and from time to time shall be changed, in accordance with the schedule applicable to the City of Arcadia set forth in the provisions of the Government Code relating to salaries of Council Members in general law cities. Such compensation may be increased or decreased by an affirmative vote of a majority of the voters voting on the proposition at any election.

Section 36516 of the Government Code allows City Council Members to receive a salary based upon the population of a city. Under the new legislation, the salary amounts range from \$950 per month for cities up to 35,000 in population, up to a maximum of \$3,200 per month for cities over 250,000 in population (see the Attachment for the monthly salary amounts per population).

For Arcadia, the City Council currently receives a monthly salary of \$500, or \$6,000 annually. Based on a population of 56,681 from the 2020 Decennial Census and the new amendments to Government Code 36516, the Arcadia City Council fits into the category of cities with populations between 50,000 and 75,000, whose City Council Members are eligible for a salary of up to \$1,600 per month.

Since Arcadia's Charter automatically ties City Council compensation to Government Code Section 36516, no further action is needed by the City Council to update its compensation. The purpose of this staff report is to inform the City Council and the public of this change in state law and the corresponding compensation changes. In the future, under Government Code Section 36516, the City Council is authorized to increase its salary on an annual basis via ordinance, up to a maximum of 5% annually, or an amount equal to inflation under the California Consumer Price Index, beginning January 1, 2024.

Any compensation paid for City Council health or retirement benefits are excluded for the purposes of calculating the City Council's monthly salary. Additionally, reimbursements for allowable expenses like City-sanctioned meetings or travel are also excluded from the calculation.

ENVIRONMENTAL ANALYSIS

The proposed compensation adjustment for City Council Members does not constitute a project under the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines, and it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA.

FISCAL IMPACT

For Fiscal Year 2023-24, the City Council is budgeted to receive a monthly salary of \$500, or an annual compensation of \$6,000. With this change to state law and Government Code, the monthly salary will increase to \$1,600 per Council Member. Assuming

application of the increase beginning in September, this change will result in an additional \$55,000 of unbudgeted expense this Fiscal Year. In a typical budget year, a portion of funds remain unspent at the end of the year due to vacancies and other factors. For instance, the City Manager's Office has had an extended vacancy, which creates capacity for the additional City Council salary expenses. Staff will monitor expenses in the General Fund budget and will bring forward a supplemental appropriation, if necessary.

RECOMMENDATION

It is recommended that the City Council determine this action does not constitute a project, and, therefore, is exempt under the California Environmental Quality Act ("CEQA"); and receive and file this report on the adjusted City Council compensation.

Attachment: Senate Bill No. 329



SB-329 Cities: city council members: compensation. (2023-2024)

SHARE THIS:



Date Published: 06/29/2023 09:00 PM

Senate Bill No. 329

CHAPTER 27

An act to amend Section 36516 of the Government Code, relating to local government.

[Approved by Governor June 29, 2023. Filed with Secretary of State June 29, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 329, Dodd. Cities: city council members: compensation.

Existing law authorizes a city council to enact an ordinance to provide each member of the city council a salary based upon the population of the city, as specified. Existing law authorizes that amount to be increased by the city council by an amount that does not exceed 5% for each calendar year from the operative date of the last

adjustment of the salary that is in effect when the increase is enacted. Existing law provides for the procedures by which a city may enact ordinances.

This bill would increase the maximum amount of salary, based upon the population of the city, that may be approved by an ordinance passed by the city council, as specified. The bill would authorize the salary of council members to be increased beyond the specified maximums to an amount not exceeding the greater of either 5% for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted, or an amount equal to inflation since January 1, 2024, based upon the California Consumer Price Index, which shall not exceed 10% for each calendar year. The bill would require the city council to consider the adoption of an ordinance to increase council member compensation in open session during at least 2 regular meetings of the city council.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The compensation schedule for general law cities has not been adjusted since 1984, meaning that city council compensation has not kept pace with inflation.

(b) Allowing cities to adjust their compensation for inflation since 1984 may help city councils become more diverse because increased compensation can help individuals from across different income levels receive sufficient income from their service to help ensure that they can continue to serve the public and support their families.

SEC. 2. Section 36516 of the Government Code is amended to read:

36516. (a) (1) A city council may enact an ordinance providing that each member of the city council shall receive a salary based on the population of the city as set forth in paragraph (2).

(2) The salaries approved by ordinance under paragraph (1) shall be as follows:

(A) In cities up to and including 35,000 in population, up to and including nine hundred fifty dollars (\$950) per month.

(B) In cities over 35,000 up to and including 50,000 in population, up to and including one thousand two hundred seventy-five dollars (\$1,275) per month.

(C) In cities over 50,000 up to and including 75,000 in population, up to and including one thousand six hundred dollars (\$1,600) per month.

(D) In cities over 75,000 up to and including 150,000 in population, up to and including one thousand nine hundred dollars (\$1,900) per month.

(E) In cities over 150,000 up to and including 250,000 in population, up to and including two thousand five hundred fifty dollars (\$2,550) per month.

(F) In cities over 250,000 population, up to and including three thousand two hundred dollars (\$3,200) per month.

(3) For the purposes of this subdivision, the population of a city shall be determined by the last preceding federal census, or a subsequent census, or estimate validated by the Department of Finance.

(4) The salary of council members may be increased beyond the amount provided in this subdivision by an ordinance or by an amendment to an ordinance, but the amount of the increase shall not exceed the greater of either of the following:

(A) An amount equal to 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted.

(B) An amount equal to inflation since January 1, 2024, based upon the California Consumer Price Index, which shall not exceed 10 percent for each calendar year.

(5) No ordinance shall be enacted or amended to provide automatic future increases in salary.

(b) Notwithstanding subdivision (a), at any municipal election, the question of whether city council members shall receive a salary for services, and the amount of that salary, may be submitted to the electors. If a majority of the electors voting at the election favor it, all of the council members shall receive the salary specified in the election call. The salary of council members may be increased beyond the amount provided in this section or decreased below the amount in the same manner.

(c) Unless specifically authorized by another statute, a city council may not enact an ordinance providing for compensation to city council members in excess of that authorized by the procedures described in subdivisions (a) and (b). For the purposes of this section, compensation includes payment for service by a city council member on a commission, committee, board, authority, or similar body on which the city council member serves. If the other statute that authorizes the compensation does not specify the amount of compensation, the maximum amount shall be one hundred fifty dollars (\$150) per month for each commission, committee, board, authority, or similar body.

(d) Any amounts paid by a city for retirement, health and welfare, and federal social security benefits shall not be included for purposes of determining salary under this section, provided that the same benefits are available and paid by the city for its employees.

(e) Any amounts paid by a city to reimburse a council member for actual and necessary expenses pursuant to Section 36514.5 shall not be included for purposes of determining salary pursuant to this section.

(f) A city council member may waive any or all of the compensation permitted by this section.

(g) (1) For the purposes of this section, a city council shall consider the adoption of an ordinance to increase compensation in open session during at least two regular meetings of the city council.

(2) At the first meeting, the city council shall present the proposed ordinance, which shall include findings demonstrating the need for the increased compensation. The ordinance shall not be adopted at the first meeting.

(3) At least seven days after the first meeting, the city council shall hold a second meeting to consider whether to adopt the ordinance.



STAFF REPORT

Development Services Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Jason Kruckeberg, Assistant City Manager/Development Services Director
Kevin Merrill, City Engineer
By: Johnathan Doojhibulpol, Associate Civil Engineer

SUBJECT: CONTRACT WITH GENTRY BROTHERS, INC., FOR THE DOWNTOWN ALLEY IMPROVEMENTS PROJECT AND CITY BROADBAND INFRASTRUCTURE IN THE AMOUNT OF \$1,938,334, PLUS A 10% CONTINGENCY
CEQA: Exempt
Recommendation: Approve

SUMMARY

In 2019, the City was awarded Metro's Measure M Multi-Year Subregional Program ("MSP") funds through the San Gabriel Valley Council of Governments ("SGVCOG"), for improvements to the City's downtown alleys. The main purpose of the funding was to close the first/last mile gap between the regional transit system and local communities. The Downtown Alley Improvements Project ("Project") would complement the previously approved Gold Line Station Pedestrian Linkage project and the Citywide Bicycle Facility Improvements project in closing the first/last mile gap in Arcadia.

The Project was advertised for bids on June 1, 2023, and bids were opened June 29, 2023. Four bids were received, and Gentry Brothers, Inc. was the lowest responsible bidder with a bid in the amount of \$1,773,334. Additionally, \$165,000 in broadband infrastructure was added to the project, for a total project cost of \$1,938,334.

It is recommended that the City Council find the project categorically exempt pursuant to the requirements of the California Environmental Quality Act ("CEQA"); and authorize and direct the City Manager to execute a contract with Gentry Brothers, Inc. for the Downtown Alley Improvements Project in the amount of \$1,938,334, with a 10% contingency.

BACKGROUND

Improvements to the Downtown alleys have been under consideration since the inception of the Gold Line Light Rail Extension project (now referred to as the "A Line"). Since the opening of the Gold Line, the City has completed several projects to enhance multiple modes of transportation in the area around the light rail station. These enhancements

include pedestrian linkage improvements on First Avenue and Santa Clara Street, bicycle network improvements centered around the station, and fixed-route transit service with the station serving as the hub for Arcadia Transit. All these projects are intended to connect the Arcadia Station with the community through alternative modes of travel. In 2019, Metro made MSP funds available to cities through the SGVCOG under four categories, one of which was the First/Last Mile and Complete Street Program. For the first time, alley level projects were eligible for regional transportation funding. The City was awarded the MSP First/Last Mile and Complete Street Program funding for the Downtown Alley Improvements Project.

The scope of the Project will provide shared paths for pedestrians, bicyclists, and automobiles that are in a “complete street” format, and are safe and welcoming for all. Through this Project, the alleys will become entirely concrete and pedestrian paths will be denoted with colored and/or decorative concrete. Bike lanes will be demarcated with painted stencils and other improvements will include storm drain, landscape, and lighting.

The two alleys being improved are listed below (see Attachment No. 2 for an exhibit showing location):

- East-West Alley North of Huntington Drive between Santa Anita Avenue and First Avenue
- East-West Alley North of Santa Clara Street between First Avenue and Second Avenue

On January 16, 2021, the City issued a Request for Proposals (“RFP”) soliciting professional services for preliminary design concepts, plans, specifications, and cost estimates (“PS&E”) for the Project. SWA Group (“SWA”) was selected and approved as the most qualified firm by the City Council on March 16, 2021. SWA provided final plans in October 2022.

During the preparation for bids, adjacent business owners were notified and new information was provided that required adjustments to the design. In February 2023, PSOMAS was selected to assist in the design adjustments under the City’s Design Engineering Services Professional Services Agreement. Final design plans were submitted in April 2023.

DISCUSSION

The project was advertised for bids in June 2023 and bids were opened on June 29, 2023. Bids were received from four prospective contractors, with the following base bid results:

NAME	AMOUNT
Gentry Brothers Inc.	\$1,773,334.00
Axiom Group	\$2,748,872.63
Los Angeles Engineering Inc	\$2,777,000.00
Hardy & Harper, Inc	\$3,377,000.00

After reviewing the bid documents, Gentry Brothers, Inc. was determined to be the lowest responsible bidder. Gentry Brothers did have one minor math error that increased their bid by \$4,800, but their bid was still the lowest. The amount shown in the table above includes the accurate, final number. Gentry Brothers has previously been awarded City projects and performed with favorable results.

With the large difference in bid spreads, Gentry Brothers was contacted to ensure that they understood the specialty work included in the project (e.g., the concrete etching). Gentry Brothers communicated that they self-perform much of the specialty work that other contractors hire sub-contractors from which keeps their costs lower. They provided examples in the Cities of La Verne and Claremont where they performed similar tasks; they confirmed they are satisfied with their bid price.

As the project bid process progressed, the Development Services Department was also working on a Downtown Broadband Strategic Plan. The intent of this plan was to assess and possibly improve broadband infrastructure in the Downtown area. With the concrete improvements proposed for the Downtown alleys, it would be prudent and cost-effective to install any broadband infrastructure with the Project to avoid reconstruction costs later. To consolidate these efforts, an estimated 2,000 linear feet of conduit and 12 pull boxes were added to the proposed Project. Gentry Brothers analyzed this scope and provided a quote of \$165,000 for the installation of the broadband infrastructure. This quote is in line with similar costs on other City projects. With the addition of the conduit work, the total project cost is \$1,938,334.

ENVIRONMENTAL ANALYSIS

This project is categorically exempt per Section 15301 and 15302 of the California Environmental Quality Act ("CEQA"), as repair and maintenance of an existing highway or street.

FISCAL IMPACT

The City was awarded funding from a Metro Multi-Year Subregional Program Grant, under the First/Last Mile and Complete Street Program Measure M funds, in the amount of \$1,771,250 for design and construction. Of this funding, \$240,000 was dedicated and spent on design. The remaining \$1,531,250 in grant funding will be dedicated to project construction.

To cover the remaining costs in the Fiscal Year 2022-23 Budget, \$800,000 of Proposition C and \$200,000 of Measure M funds were earmarked for the project, per the designer's conservative estimate of \$2,600,000. The bid submitted by Gentry Brothers is well below the designer's estimate, and as a result, only some of the budgeted Proposition C monies will be needed to fund the project. Therefore, there are sufficient funds to cover the entire project cost of \$2,132,167.40 (\$1,773,334 bid amount, \$165,000 in broadband infrastructure, plus the 10% contingency of \$193,833.40); no General Fund dollars will be used for the project.

RECOMMENDATION

It is recommended that the City Council find the project categorically exempt pursuant to the requirements of the California Environmental Quality Act ("CEQA"); and authorize and direct the City Manager to execute a contract with Gentry Brothers, Inc., for the Downtown Alley Improvements Project and City broadband infrastructure in the amount of \$1,938,334, plus a 10% contingency.

Approved:



Dominic Lazzaretto
City Manager

Attachment No. 1: Proposed Contract

Attachment No. 2: Map of Alleys

CITY OF ARCADIA

**DOWNTOWN ALLEY IMPROVEMENTS PROJECT AND
CITY BROADBAND INFRASTRUCTURE**

PROJECT NO. 41854121

CONTRACT

**BETWEEN
CITY OF ARCADIA
AND
GENTRY BROTHERS, INC.**

CONTRACT

This CONTRACT, No. _____ is made and entered into this ____ day of _____, 2023, by and between City of Arcadia, sometimes hereinafter called "City," and Gentry Brothers, Inc., sometimes hereinafter called "Contractor."

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

a. **SCOPE OF WORK.** The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

DOWNTOWN ALLEY IMPROVEMENTS PROJECT AND CITY BROADBAND INFRASTRUCTURE

The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor's failure to comply with this obligation.

a. **TIME FOR COMPLETION.** Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the City's Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within **120 calendar days** from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

b. **CONTRACT PRICE.** The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of One million, nine hundred thirty-eight thousand, and three hundred thirty-four Dollars (\$ 1,938,334.00). Payment shall be made as set forth in the General Conditions.

c. **LIQUIDATED DAMAGES.** In accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum set forth in Section 00 73 13, Article 1.11 for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

d. **COMPONENT PARTS OF THE CONTRACT.** The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Form
- Bid Bond
- Designation of Subcontractors
- Information Required of Bidders
- Non-Collusion Declaration Form

Iran Contracting Act Certification
Public Works Contractor Registration Certification
Performance Bond
Payment (Labor and Materials) Bond
General Conditions
Special Conditions
Technical Specifications
Addenda
Plans and Drawings
Standard Specifications for Public Works Construction "Greenbook", latest edition, Except Sections 1-9
Applicable Local Agency Standards and Specifications, as last revised
Approved and fully executed change orders
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

e. **PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.** Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

f. **INDEMNIFICATION.** Contractor shall provide indemnification and defense as set forth in the General Conditions.

g. **PREVAILING WAGES.** Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the City's Administrative Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF ARCADIA

GENTRY BROTHERS, INC.

By: _____
Dominic Lazzaretto
City Manager

By: _____
Its: _____

Printed Name: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Michael J. Maurer
City Attorney

**(CONTRACTOR'S SIGNATURE MUST BE
NOTARIZED AND CORPORATE
SEAL AFFIXED, IF APPLICABLE)**

END OF CONTRACT

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public _____

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

Title(s)

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:

Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

CITY OF ARCADIA

**DOWNTOWN ALLEY IMPROVEMENTS PROJECT AND
CITY BROADBAND INFRASTRUCTURE**

PROJECT NO. 41854121

**PART "G"
PERFORMANCE BOND**

BOND FORMS

1.1 Performance Bond.

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Arcadia, (hereinafter referred to as "City") has awarded to Gentry Brothers, Inc., (hereinafter referred to as the "Contractor") an agreement for **Contract No.** _____, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, Gentry Brothers Inc., the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its officials, officers, employees, and authorized volunteers, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by City in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

- i. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- ii. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.
- iii. Permit the City to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

By their signatures hereunder, Surety and Contractor hereby confirm under penalty of perjury that surety is an admitted surety insurer authorized to do business in the State of California.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2023.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

Note: A copy of the Power-of-Attorney to local representatives of the bonding company must be attached hereto in addition to appropriate Notarial Acknowledgements of Execution by both Contractor and Surety.

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of Attorney to local representatives of the bonding company must also be attached.

END OF PERFORMANCE BOND

PERFORMANCE BOND - 5

CITY OF ARCADIA

**DOWNTOWN ALLEY IMPROVEMENTS PROJECT AND
CITY BROADBAND INFRASTRUCTURE**

PROJECT NO. 41854121

**PART "H"
PAYMENT BOND**

1.2 Payment Bond (Labor and Materials).
KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the City of Arcadia (hereinafter designated as the "City"), by action taken or a resolution passed _____, 20____, has awarded to Gentry Brothers, Inc. hereinafter designated as the "Principal," a contract for the work described as follows: **Contract No.**_____ (the "Project"); and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Civil Code Section 9100, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Revenue and Taxation Code Section 18663, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose

benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Civil Code Section 9100, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

By their signatures hereunder, Surety and Principal hereby confirm under penalty of perjury that surety is an admitted surety insurer authorized to do business in the State of California.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

_____ Title(s)

_____ Title or Type of Document

- Partner(s) Limited
- General

_____ Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

_____ Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____ Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF PAYMENT BOND

CHANGE ORDER FORM - 5





STAFF REPORT

Police Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Roy Nakamura, Police Chief
By: Amber Abeyta, Management Analyst

SUBJECT: PURCHASE OF AMMUNITION FROM SAN DIEGO POLICE EQUIPMENT CO., INC. IN AN AMOUNT NOT TO EXCEED \$100,115
CEQA: Not a Project
Recommendation: Waive the Formal Bid Process and Approve

SUMMARY

It is recommended that the City Council authorize the purchase of new factory ammunition from San Diego Police Equipment Co., Inc. in an amount not to exceed \$100,115.

DISCUSSION

All police officers are required to maintain standards of proficiency for various weapons used in the line of duty. Purchases of ammunition are made on an as-needed basis to maintain adequate inventory and officers' proficiency levels through monthly qualifications and scheduled trainings. The Police Department maintains a variety of weapons to respond to any potential threats to the safety and welfare of the citizens of Arcadia.

The Department's weapons all require specialized types of ammunition, which are limited to specific manufacturers and authorized dealers. The Department utilizes two primary brands of ammunition, Federal Premium and Speer, which is owned and manufactured solely by Alliant Techsystems, Inc. ("ATK"). San Diego Police Equipment Co., Inc. is the sole authorized dealer and distributor of ATK ammunition for the Western United States region. Separately, the Department also purchases ammunition from Blackhills Ammunition, Inc., for ammunition specific to SWAT-sniper training and operations. ATK and Blackhills' ammunition have been utilized by the Department for over a decade and continue to meet the Department's ammunition standards based on ballistic capabilities, performance, and functional reliability.

Given that San Diego Police Equipment Co., Inc. is the sole authorized dealer and distributor of ATK ammunition, it is recommended that the City Council waive the formal bid process and authorize the purchase.

ENVIRONMENTAL ANALYSIS

The proposed action does not constitute a project under the California Environmental Quality Act (“CEQA”), based on Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA.

FISCAL IMPACT

Based on previous usage, approximately \$100,115 in ammunition will be necessary during the current Fiscal Year to meet the Department’s needs. Sufficient funds for the purchase of ammunition have been allocated in the Fiscal Year 2023-24 Budget under Patrol FTU Supplies.

RECOMMENDATION

It is recommended that the City Council determine that this action is not a project under the California Environmental Quality Act (“CEQA”); and waive the formal bid process and authorize the purchase of ammunition from San Diego Police Equipment Co., Inc. in an amount not to exceed \$100,115.

Approved:



Dominic Lazzaretto
City Manager



STAFF REPORT

Fire Department

DATE: August 15, 2023
TO: Honorable Mayor and City Council
FROM: Chen Suen, Fire Chief
By: Charles Tuggle, Battalion Chief

SUBJECT: PURCHASE ORDER WITH ALL STAR FIRE EQUIPMENT FOR THE PURCHASE OF STRUCTURAL FIREFIGHTING COATS AND PANTS IN THE AMOUNT OF \$44,600 FOR FISCAL YEAR 2023-24; AND AUTHORIZE THE CITY MANAGER TO APPROVE THE SUBSEQUENT ANNUAL RENEWALS.

CEQA: Not a Project

Recommendation: Approve

SUMMARY

The Fire Department recently solicited bids for structural firefighting coats and pants. All Star Fire Equipment (“All Star Fire”) was determined to be the most responsive and responsible bidder. It is recommended that the City Council approve a Purchase Order with All Star Fire Equipment for providing structural firefighting coats and pants in the amount of \$44,600 for Fiscal Year 2023-24; and authorize the City Manager to renew the Purchase Order for an additional three, one-year extensions. Sufficient funds have been allocated in the Fiscal Year 2023-24 Fire Department Operating Budget.

DISCUSSION

The Fire Department strives to maintain safety equipment in optimal condition that provides heat and flame resistance during firefighting activities. According to the recommended industry standards and the National Fire Protection Association (“NFPA”) guidelines, all structural firefighting safety equipment should be replaced every 10 years from the manufacturer’s date, barring exposure to caustic substances or irreparable wear and tear, for which the equipment should be replaced sooner. Historically, the Fire Department replaces approximately 12 sets of structural firefighting coats and pants every year.

In June 2023, a formal bid process was conducted for the purchase of structural firefighting coats and pants with the following results:

Bidder	Location	Bid*
All Star Fire Equipment	Arcadia, CA	\$ 55,681.76
L.N. Curtis & Sons	Oakland, CA	\$ 71,559.42
Firefighter Safety Center	Santa Fe Springs, CA	No Bid Received

**The bid amounts received were higher than the proposed purchase order because the bid packet requested a higher quantity of structural firefighting uniforms (15 sets), as contingency for potential new hires or unanticipated uniform damage during the purchase order term*

All-Star Fire Equipment was determined to be the lowest responsible bidder that met the requested specifications. In this industry, it is becoming more prevalent for manufacturers to only allow certain vendors to sell their brand, which hinders potential bidders from competing. Incidentally, given the customized specifications of the Arcadia Fire Department's firefighting coats and pants, outlined in the City's bid document (i.e., type of uniform material and functionality), All Star Fire Equipment was the only vendor who was able to meet the bid requirements. All Star Fire Equipment has provided services to the Fire Department for the last six years and has provided timely and quality customer service. Therefore, it is recommended that the City purchase structural firefighting coats and pants with All Star Fire Equipment for this current Fiscal Year; and delegate to the City Manager, the authority to renew the agreement annually, up to an additional three years.

ENVIRONMENTAL ANALYSIS

The proposed action does not constitute a project under the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA.

FISCAL IMPACT

Sufficient funds had been allocated in the Fiscal Year 2023-24 Fire Department Operating Budget for the purchase of these firefighting uniforms.

RECOMMENDATION

It is recommended that the City Council determine that this action does not constitute a project, and therefore, is exempt under the California Environmental Quality Act ("CEQA"); and approve a purchase order with All-Star Fire Equipment for providing structural firefighting coats and pants in the amount of \$44,600 for Fiscal Year 2023-24; and authorize the City Manager to approve the subsequent annual renewals.

Approved:



Dominic Lazzaretto
City Manager



STAFF REPORT

Recreation and Community Services Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Sara Somogyi, Director of Recreation and Community Services
By: Ashley Marston, Management Aide

SUBJECT: JOINT USE DANA GYM MAINTENANCE AND OPERATION EXPENSES,
NOT TO EXCEED \$50,400
CEQA: Not a Project
Recommendation: Approve

SUMMARY

The City of Arcadia and Arcadia Unified School District (“AUSD”) have a joint use agreement for Dana Gym at Dana Middle School. Both parties split the annual costs for the maintenance and operation of the facility. It is recommended the City Council approve the City’s portion of expenditures for the maintenance and operations of Dana Gym, not to exceed \$50,400.

BACKGROUND

On February 6, 2008, the City of Arcadia and AUSD entered a Joint Use Agreement (“Agreement”) for the use of Dana Gym for recreational purposes. Dana Gym is an approximately 8,000 square foot gymnasium utilized by the Recreation and Community Services Department for basketball, volleyball, badminton, and other recreation classes and activities. The facility’s usage is split between the parties per a prearranged schedule. The Joint Use Agreement is for 40 years and is set to expire in 2048, unless otherwise terminated early and upon mutual agreement of both parties.

DISCUSSION

Per the Agreement, the City and AUSD equally share in the annual costs associated with maintaining and operating the facility. Annual shared costs include alarm services, electrical, gas, water, building repair and maintenance; however, each party is responsible for coordination and payment of custodial services after their use of the facility. AUSD undertakes and accomplishes all maintenance and operations either by using AUSD assets or outsourcing labor. The City is billed quarterly for 50% of the costs and pays AUSD directly. For Fiscal Year 2023-24, the City’s share of the costs is expected to total \$50,400. With ongoing inflation and labor increases, these expenses are expected to increase annually. Due to the extended nature of the Agreement, it is recommended

that City Council approve expenditures for maintenance and operations of Dana Gym, not to exceed \$50,400 annually.

ENVIRONMENTAL ANALYSIS

The proposed action does not constitute a project under the California Environmental Quality Act (“CEQA”), and it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA under Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines.

FISCAL IMPACT

FY 2023-24 operating costs for Dana Gym are \$50,400 and were approved by City Council as a part of the City’s FY 2023-24 Operating Budget.

RECOMMENDATION

It is recommended that the City Council determine that this action does not constitute a project and is, therefore, exempt under, the California Environmental Quality Act (“CEQA”); and approve the joint use Dana Gym maintenance and operations expenses, not to exceed \$50,400.

Approved:



Dominic Lazzaretto
City Manager

Attachment: Joint Use Agreement of Dana Gymnasium

JOINT USE GYMNASIUM AGREEMENT

This JOINT USE AGREEMENT ("Agreement") is made by and between the ARCADIA UNIFIED SCHOOL DISTRICT, a California public school district ("District") and the CITY OF ARCADIA, a Charter City organized pursuant to the Constitution and laws of the State of California ("City") effective upon approval by the District and the City.

RECITALS

A. District and City desire to mutually cooperate in constructing and operating a gymnasium to be located at Dana Middle School, 1401 South First Avenue, Arcadia, CA 91006 ("Project"). The general location of the Project on the Dana Middle School Campus is shown on Exhibit "A" attached hereto and incorporated herein by reference.

B. The Project would benefit the children and residents of the District and the City by providing recreational opportunities not currently available during the school day, in the evenings, and on weekends.

C. Jointly operated recreational facilities between a public school district and a city are expressly permitted under Education Code Sections 10900 *et seq* and 17077.40 through 17077.45.

D. The purpose of this Agreement is to fulfill the requirements to seek State of California ("State") 50-50 match funding for the Project under Senate Bill 50, Chapter 587 of the Statutes of 2003 ("SB 50").

AGREEMENT

1. Recitals Incorporated: The Recitals set forth above are incorporated herein as an integral part of this Agreement.

2. Financial Contributions: Under the terms of SB 50, the State will contribute up to (50%) of the approved Project costs, not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000). The District and the City will equally share the remaining costs, if the Project is approved. The estimated cost of the Project, including both soft costs and hard costs, is Five Million Five Hundred Thousand Dollars (\$5,500,000), and therefore the estimated financial contribution for the District and the City will be Two Million Dollars (\$2,000,000) each. Per Education Code Section 17077.45, if the costs of the Project exceed the amount authorized by the State, the District and the City will equally share in paying the excess costs. Notwithstanding any provision herein to the contrary, the City's maximum contribution shall not exceed **Two**

Million Dollars (\$2,000,000). It shall be a condition precedent for the City's obligation to make any and all payments hereunder that the District and the City first agree upon a budget for construction of the Project, and then agree upon actual costs (both soft costs and hard costs) which will be incurred in completing the Project. If the Project costs exceed the City's maximum contribution, the District and the City shall meet and confer. Any additional expenditures beyond the City's maximum contribution shall be subject to approval by the City Council, in its sole and absolute discretion.

The District shall be "Lead Agency" for purposes of causing the preparation of all plans and specifications, applications for funding approvals, applications for land use approvals to the extent they are required by law, agreements with consultants and contractors, bid documents, and the like. The District shall award and execute all contracts pertaining to the Project. In awarding all contracts and constructing the Project, the District shall comply with all applicable laws pertaining to construction of the Project including, without limitation, those set forth in the Public Contract Code and Labor Code. As Lead Agency defined under CEQA and NEPA, the District shall be responsible for all Federal and/or State environmental processing and approvals associated with applicable environmental laws. In order to complete this responsibility, the District will engage a CEQA/NEPA consultant whose fees and costs will be shared equally between the District and City. The City shall have the right to meet and confer with the District on the selection of such consultant. The District, in addition to being the Lead Agency, shall be responsible for constructing the Project and all related improvements (collectively the Project as described above). The District will respond to all Project related invoices. In turn, the District will invoice the City for half of all Project-related invoices. The City will remit its share of each invoice to the District within sixty (60) days of the City's receipt of the District's invoice.

3. Project Specifications: The Project shall consist of a gymnasium of approximately 7,500-8,000 square feet with integrated restroom facilities, storage rooms, office space and ancillary spaces of approximately 2,000 - 2,500 square feet. The Project shall have 6 basketball hoops and backboards and the floor shall be installed to allow poles to be set up for volleyball, badminton or other net sports. The wood floor in the gymnasium shall be appropriately marked for basketball, volleyball and badminton. The Project will be a Type II new construction project under SB 50. The design of the Project, including a cost estimate and design for site preparation and improvements, shall be jointly decided and agreed upon by District and City, using plans prepared by an architect selected by District. The District and the City shall review and agree upon final plans for the Project before they are submitted to the State for approval. The plans will be submitted by the District to the California Department of Education and/or the Office of Public School Construction for review and approval. The District and the City, through their appropriate administrators, shall each have the right to review and approve any and all changes to such plans.

4. No State Approval: In the event that the Project is not approved for funding by the State due to lack of funds under SB 50, District and City shall equally share in costs which had been incurred in preparing and submitting the Project package to the State, including architect design and related costs; provided, however, that such costs shall have been previously approved as part of the budget approved by the District and the City. The maximum City contribution for purposes of preparing and submitting the Project package to the State, including architect costs, as described in this Section 4 shall not exceed Fifteen Thousand Dollars (\$15,000), and this sum shall be deemed to be part of the City's maximum contribution set forth in Section 2. District and City shall mutually decide whether to again submit the Project package to the State during a subsequent funding cycle.

5. Maintenance, Repair and Operation Costs: Subject to annual appropriations by the applicable and respective legislative bodies, District and City shall equally share in all costs associated with maintaining, repairing and operating the Project (other than personnel costs and costs of obtaining insurance, which shall be borne by each party separately with respect to their use of and interest in the Project). Maintenance and Operations includes, but is not limited to, utility costs (not to include telephone and data), structure, and physical plant. Maintenance and Operations shall also include roof, HVAC, painting, maintenance of grounds and parking lot, security system, fire alarm system, fire suppression system, plumbing, electrical, indoor and outdoor lighting, gymnasium floor, windows, sport / activity equipment which is permanently affixed to the structure (e.g. basketball goals, scoreboard and shot clock systems, and audio-visual / public address systems) and landscaping/irrigation directly related to the Project.

As noted above, all Maintenance and Operations tasks will be undertaken and accomplished by the District, either by using District force labor or outsourced labor; provided, however, that they shall be in compliance with all applicable law. The term Maintenance and Operations shall not include custodial care costs, and related personnel and materials costs such as office supplies and custodial care products, associated with each entity's use of the facility. Project Maintenance and Operation costs described above shall include District personnel costs directly related to administering Maintenance and Operations for which the District is responsible; provided that such administration costs shall be determined using the District's approved State Indirect Cost Rate and shall not exceed 10% of the cost of the applicable Maintenance and Operations expense item.

All Maintenance and Operation costs shall be paid directly by the District. The City shall be billed quarterly by the District in the months of January, April, July, and October for its share of the costs. Payment shall be made to the District by the City within sixty (60) days of the City's receipt of an invoice. The District and the City shall meet annually in the month of March for the purpose of establishing by mutual consent, through their respective administrative staff, the Maintenance and Operation budget for

the Project for the upcoming fiscal year, which begins on July 1. Either party may notice the other in writing of any extraordinary Maintenance and Operation items needing immediate attention, particularly in the event of a safety concern.

For their respective use of the Project, the City and the District shall each be responsible for custodial care, and related personnel and materials costs, associated with their daily use of the facility. The custodial care shall immediately take place following the use of the Project by either the District or the City.

6. Operations Schedule: District and City agree to the following operation schedule (“Operation Schedule”) for the Project:

a. District Exclusive Use: District shall have exclusive use of the Project on weekdays from 7:00 a.m. until 5:00 p.m.

b. City Exclusive Use: City shall have exclusive use of the Project from 5:00 p.m. until 10:00 p.m. on weekdays, and from 7:00 a.m. until 10:00 p.m. on weekends and holidays. The City shall have access to the Project to perform custodial obligations up to two hours immediately after the expiration of the time for City use as set forth herein.

c. Special District or City Use:

1. Calendaring of Special Uses; Notice if not Calendared. The District and City shall meet biannually, at times of the year to be specified by the parties, and such other times as the parties may mutually agree to review and approve a proposed calendar for special uses. The parties acknowledge that some proposed special uses, as described in c.2. and c.3. below, may not be known until after the proposed calendar is developed at such meetings. In such cases, at least thirty (30) days written notice shall be given unless waived by the parties.

2. Designated Special Use Time by District. District shall have the right to designate up to twelve (12) weekday evenings (after 5:00 p.m.) and up to three (3) full day uses on weekends per year. District shall have the right to trade up to five (5) weekday evening uses for up to five (5) hours on a Saturday or Sunday. If not calendared at biannual meetings, notice shall be given as described in c.1.

3. Designated Special Use Time by City During Vacation Periods. During District vacation periods (winter, spring and summer) if school programs or school related programs are not in operation, City shall have the right to designate additional uses during weekday hours. If not calendared at biannual meetings, notice shall be given as described in c.1.

d. Maintenance Activities: Use of the Project as specified above may need to be curtailed from time to time for maintenance activities.

7. Staffing: District and City shall each be responsible for hiring employees and staffing the Project during the time they are respectively using the Project. District and City agree that they will provide sufficient staffing (depending on the activities being provided) to ensure that students and community participants using the Project can be safely monitored and supervised. At all times there shall be at least one (1) staff person from the City or District present, during their respective use of the Project, who is trained and certified in first aid and CPR. An emergency first aid kit shall be on the premises at all times, as well as instruction materials on how to contact emergency services in the event of accident, injury, or natural disaster. Staff shall be trained in exit routes out of the Project, and where to take participants in case of emergency. Both District and City staff shall be required to complete and file an incident report in case of any accident that results in injury. Staff shall ensure that no one is allowed to smoke in or around the Project and that no alcohol or controlled substances are allowed in or around the Project.

8. Insurance Requirements: City and District shall each provide its own liability and other insurance deemed by each, respectively, to be necessary to protect the activities and facilities covered hereunder in an amount of not less than Two Million Dollars (\$2,000,000) per occurrence/Four Million Dollars ((\$4,000,000) in the aggregate. City and District shall each provide the other with a certificate of insurance which certificate shall provide evidence that thirty (30) day advance notice shall be required to be given to the party receiving said certificate of any cancellation of such coverage. Alternatively, City and/or District may self-insure up to the specified limits as evidenced by a rider or certification of self-insurance to be provided to the other party. City and District shall be responsible, respectively, for their own cost to procure such liability insurance.

District shall procure, if not available through its joint powers insurance authority, fire and casualty (property) insurance in amounts and coverage mutually agreed upon, which shall be a shared cost between the City and District. District shall meet and confer with the City on procurement of fire and casualty insurance for the Project. For JPA coverage, there shall be an appropriate pro ration of the District's cost for fire and casualty insurance obtained through its JPA for the Project. In the event that such insurance is available through the District's joint powers insurance authority, there shall be an appropriate pro ration between the City and the District of the District's cost for fire and casualty insurance for the Project.

9. Indemnification: Neither of the parties to this Agreement nor their respective elected officials, officers, employees or agents, shall be deemed to assume or have any liability for any act or omission of any other party, its elected officials, officers, employees or agents, arising out of the performance of this Agreement.

City agrees to indemnify, defend, and hold harmless District, its officials, officers, employees and agents from and against any and all claims, demands, suits, loss, damage, injury and liability, including costs, judgments and expenses, arising out of any negligent or wrongful act or omission of City, its officials, employees or agents in the performance of this Agreement.

District agrees to indemnify, defend, and hold harmless City, its officials, officers, employees and agents from and against any and all claims, demands, suits, loss, damage, injury and liability, including costs, judgments and expenses, arising out of any negligent or wrongful act or omission of District, its officials, officers, employees or agents in the performance of this Agreement.

10. Equipment: District and City shall each be responsible for providing all of the balls, equipment, and other related materials needed for the activities that are offered during their respective operations of the Project. Both entities will be provided secure storage areas for those items. To the extent District and City share equipment, such as volleyball and badminton equipment, the District and City shall agree on a shared cost for such materials.

11. Term: The Agreement shall terminate forty (40) years from recordation of the notice of completion of the Project, unless sooner terminated upon mutual agreement of District and City.

12. Notices: All notices to the parties shall be in writing and shall be delivered by U.S. mail, overnight delivery, email transmission or fax. The addresses for notice are as follows:

District: Arcadia Unified School District - Superintendent
234 Campus Drive
Arcadia, CA 91007

City: City of Arcadia – City Manager
240 West Huntington Drive
PO Box 60021
Arcadia, CA 91066-6021

Either party may change the notice information by providing the other party with advance notice in writing. U.S. mail deliveries shall be deemed to be received after (5) days after mailing.

13. Amendments: This Agreement may only be amended in writing by mutual agreement of the parties.

14. Construction and Integration: The parties hereto acknowledge and agree that each has been given the opportunity to review this Agreement with legal counsel independently, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions thereof. In the event of an ambiguity in or dispute regarding the interpretation of the same, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the draftsman. All prior discussions, writings, drafts related to this Agreement are integrated herein.

15. Dispute Resolution: In the event of any dispute between the parties regarding the meaning or interpretation of this Agreement the dispute shall be resolved in the following manner. First, the parties shall attempt in good faith to resolve the dispute between the respective representatives having immediate supervision and control over the Project. Second, if that is not successful, the Superintendent of the Arcadia Unified School District and the City Manager of the City of Arcadia shall attempt in good faith to resolve the dispute. If all efforts fail, the parties may agree to submit the matter to mediation or arbitration, with each party bearing half the cost, or if no agreement can be reached, either party may proceed to litigation. In the event of litigation or arbitration, the prevailing party is entitled to reasonable attorneys fees and costs.

16. Cooperation: District and City agree to reasonably cooperate with each other in preparing and submitting any additional documentation needed by the State to maximize the potential for funding the Project under SB 50.

17. Severability: If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining portions shall not in any way be affected or impaired and shall remain in full force and effect unless to do so would be in contradiction of the intent of the parties in entering into the Agreement.

18. Time: Time is of the essence in this Agreement and in each and every term, provision and condition thereof.

19. Remedies Cumulative: No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of such provision or of any other provision hereof.

20. Captions: The captions, headings, and titles to the various sections of this Agreement are not a part of this Agreement, are for convenience and identification only, and shall have no effect upon the construction or interpretation of any part thereof.

21. No Third Party Benefit: This Agreement is by and between the parties named herein, and unless expressly provided in the foregoing provisions, no third party shall be benefited hereby. This Agreement may not be enforced by anyone other than a party hereto, or a successor to such party who has acquired his/her/its interest in a way permitted by this Agreement.

22. Assignees and Successors: This Agreement may not be assigned by either party without the express written consent of the other party, which consent shall not be unreasonably withheld.

23. Choice of Law: This Agreement has been negotiated and executed in the State of California and shall be governed by the laws of that state. Any legal action involving the Agreement shall be brought in the branch of the Los Angeles County court of competent jurisdiction closest to the City of Arcadia, California.

24. Partial or Total Destruction of the Project: If the Project is either partially or totally destroyed due to any cause during the term of this Agreement, City and District shall promptly meet and confer in order to mutually agree on whether to reconstruct the Project. Then each party shall pay its pro rata share of the deductible and shall be entitled to receive compensation on a 50/50 basis, from total insurance proceeds, after deduction of insurance proceeds as may be required to pay the State. In the event of a non-covered peril (such as an earthquake) when no insurance proceeds are paid, City and District shall meet and confer on whether to reconstruct the Project. If the City declines to reconstruct the Project and the District proceeds to replace the Project, this Agreement shall terminate.

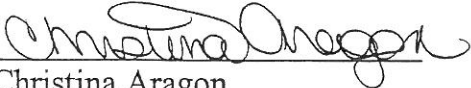
25. Auditing. The District shall make available to the City and its agents for their review, inspection and audit during normal business hours all books and records maintained by the District pertaining to the construction of the Project, and the Maintenance and Operation costs of the Project. The District shall respond to reasonable questions posed by the City and its authorized agents in order to provide support and a factual basis for all costs and expenses pertaining to the Project.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective upon approval by the District and the City.

[SIGNATURES ON NEXT PAGE]

Approved by the Arcadia Unified School District on this 6th day of February, 2008.

“ARCADIA UNIFIED SCHOOL DISTRICT”



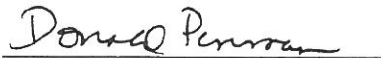
Christina Aragon
Assistant Superintendent
Business Services

Dated: February 6, 2008

Board Approval: 01/22/08

Approved by the City of Arcadia on the 15th day of January, 2008.

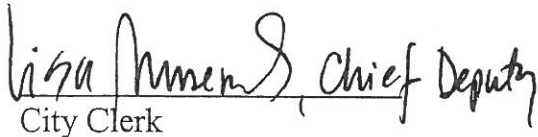
“CITY OF ARCADIA”



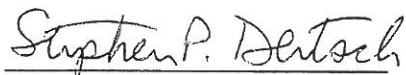
Donald Penman
City Manager

Dated: February 5, 2008

ATTEST:


City Clerk

APPROVED AS TO FORM:



Stephen P. Deitsch
City Attorney



STAFF REPORT

Public Works Services Department

DATE: August 15, 2023

TO: Honorable Mayor and City Council

FROM: Paul Cranmer, Public Works Services Director
By: Janessa Kalanjian, Management Analyst

SUBJECT: REJECT THE ONE PROPOSAL RECEIVED FOR DESIGN-BUILD SERVICES FOR THE LIBRARY FAMILY RESTROOM PROJECT AND DIRECT STAFF TO SOLICIT ADDITIONAL PROPOSALS

CEQA: Exempt
Recommendation: Approve

SUMMARY

The Fiscal Year 2022-23 Capital Improvement Plan (“FY 22-23 CIP”) allocated funding for a new family restroom at the Arcadia Public Library. The budget includes \$104,500 in Building Forward Grant funds that the Library and Museum Services Department was awarded by the California State Library for the project. To ensure that the City is receiving the highest quality of service and most competitive pricing for the design-build project, the Public Works Services Department (“PWSD”) solicited a formal Request for Proposals (“RFP”). Only one proposal was received, and it significantly exceeded the estimated budget for the project.

It is recommended that the City Council reject the one proposal received for design-build services for the Library Family Restroom Project and direct staff to solicit additional proposals at a later date.

BACKGROUND

The FY 22-23 CIP budget included \$220,000 for the construction of a new family restroom in the Children’s area of the Arcadia Public Library, with costs split evenly between the Capital Outlay Fund (\$110,000) and the anticipated grant funds (\$110,000). The Library and Museum Services Department was ultimately awarded \$104,500 in Building Forward Grant funds, reducing the total project budget to \$214,500. After the grant was awarded, a project site inspection was conducted by PWSD staff. During the inspection, the need for a more extensive remodel of the two existing restrooms was identified, which the family restroom would be built in between. These restrooms were last remodeled in 1984, and while some improvements would be made as a result of constructing the family restroom, additional remodeling could be done at a lower cost by adding it to the scope of work for this project.

The additional improvements added \$90,000 to the total project budget. Since the grant amount could not be increased, staff requested a budget appropriation for the additional funds. On February 21, 2023, City Council approved two resolutions for the Arcadia Library Family Restroom Project: Resolution No. 7481, authorizing the acceptance and execution of Building Forward Grant funds in the amount of \$104,500; and Resolution No. 7482, amending the FY 22-23 CIP budget and authorizing a supplemental budget appropriation of \$90,000 for the project, bringing the total project budget to \$304,500.

DISCUSSION

A Notice Inviting Bids was published in accordance with City Council Resolution No. 7483, and proposal packages were provided to companies that perform this type of work. On July 13, 2023, the City Clerk received one proposal with the following results:

<u>Bidder</u>	<u>Location</u>	<u>Bid Amount</u>
Axiom Group	Los Angeles, CA	\$ 592,500.00

PWSD staff contacted companies that received the RFP to inquire as to why they did not submit a proposal and the responses varied. Some companies felt that the project was too small of scale, while others did not have the ability to take on the project at this time. The project budget was reevaluated, and it was determined that it should not be increased. Staff will review the scope of services in the RFP to see if changes are needed before seeking additional proposals. Given that the proposal is nearly twice the current budget, it is recommended that the bid be rejected.

ENVIRONMENTAL ANALYSIS

This Project is considered a Class 1 exemption as defined in Section 15301(a) "Existing Facilities" projects of the California Environmental Quality Act ("CEQA"), which exempts projects consisting of the minor alteration of existing public structures.

FISCAL IMPACT

Funds in the amount of \$220,000 have been budgeted for the Library Family Restroom project as part of the FY 22-23 CIP budget, with costs being split evenly between Capital Outlay Fund and anticipated grant funds. The City was ultimately awarded \$104,500 in Building Forward Grant funds, reducing the initial project budget to \$214,500. An additional appropriation of \$90,000 from the Capital Outlay Fund was granted for the remodeling of the adjacent restrooms, bringing the total project cost to \$304,500. The total cost paid by the City should total approximately \$200,000.

RECOMMENDATION

It is recommended that the City Council determine that this action is exempt under the California Environmental Quality Act ("CEQA"); and reject the one proposal received for design-build services for the Library Family Restroom Project, and direct staff to solicit additional proposals.

Approved:



Dominic Lazzaretto
City Manager