

# CITY OF LOS ALAMITOS

3191 Katella Avenue  
Los Alamitos, CA 90720

## AGENDA CITY COUNCIL REGULAR MEETING

Monday, June 4, 2012 – 6:45 P.M.

### NOTICE TO THE PUBLIC

This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the City Clerk's Office or on the City's website at [www.ci.los-alamitos.ca.us](http://www.ci.los-alamitos.ca.us) once the agenda has been publicly posted.

Any written materials relating to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, 3191 Katella Ave., Los Alamitos CA 90720, during normal business hours. In addition, such writings or documents will be made available for public review at the respective public meeting.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the City Clerk's Office at (562) 431-3538, extension 220, 48 hours prior to the meeting so that reasonable arrangements may be made. Assisted listening devices may be obtained from the City Clerk at the meeting for individuals with hearing impairments.

Persons wishing to address the City Council on any item on the City Council Agenda will be called upon at the time the agenda item is called or during the City Council's consideration of the item and may address the City Council for up to three minutes.

1. **CALL TO ORDER**
2. **ROLL CALL**  
Council Member Graham-Mejia  
Council Member Kusumoto  
Council Member Stephens  
Mayor Pro Tem Poe  
Mayor Edgar
3. **PLEDGE OF ALLEGIANCE** Mayor Pro Tem Poe
4. **INVOCATION** Council Member Graham-Mejia

**5. SPECIAL ORDERS OF THE DAY**

**A. Interview Traffic Commission Applicant (City Clerk)**

This report provides relevant information by which the City Council may appoint a member to the Traffic Commission vacancy.

Recommendation:

1. Interview the following applicant; and,  
6:45 Richard Murphy
2. Make an appointment to the Traffic Commission; or,
3. Action as Council deems appropriate.

**6. PRESENTATIONS**

**A. Status Update from Ted Stevens, Acting Manager, Regarding Long Beach Animal Control Services**

**B. Video Presentation from Rick Reeder, Orange County Fire Authority Battalion Chief, Regarding Drowning Prevention**

**7. ORAL COMMUNICATIONS**

At this time, any individual in the audience may come forward to speak on any item within the subject matter jurisdiction of the City Council. Remarks are to be limited to not more than five minutes per speaker.

**8. REGISTER OF MAJOR EXPENDITURES**

Approve the Register of Major Expenditures for June 4, 2012, in the amount of \$408,961.85.

**Roll Call Vote**

Council Member Graham-Mejia  
Council Member Kusumoto  
Council Member Stephens  
Mayor Pro Tem Poe  
Mayor Edgar

**9. CONSENT CALENDAR**

All Consent Calendar items may be acted upon by one motion unless a Council Member requests separate action on a specific item.

\*\*\*\*\*CONSENT CALENDAR\*\*\*\*\*

- A. Approval of Minutes** (City Clerk)  
1. Approve the Minutes of the Special Meeting of May 21, 2012.  
2. Approve the Minutes of the Regular Meeting of May 21, 2012.

- B. Warrants** (Finance)  
Approve the Warrants for June 4, 2012, in the amount of \$49,765.86.

- C. Approval of Plans and Specifications, and Authorization to Bid for Old Town West Street Improvement Project (CIP No. 11/12-02) (P.W.)**  
This report recommends actions to begin facilitating the construction of the Old Town West Street Improvement Project.

Recommendations:

1. Approve the plans and specifications for the construction of the Old Town West Street Improvement Project (CIP No. 11/12-02); and,
2. Authorize staff to advertise and solicit bid proposals.

- D. Award Bid for Public Works Yard Gas Tanks Removal Project Improvements (CIP No. 11/12-01)** (Public Works)  
This report recommends action to begin facilitating the construction of the Public Works Yard Gas Tanks Removal Project (CIP No. 11/12-01) which consists of removing two (2) 5,000-gallon Plasteel tanks.

Recommendations:

1. Award construction of the Public Works Yard Gas Tanks Removal Project (CIP No. 11/12-01) to A+ Environmental Solutions for \$32,496.99; and,
2. Authorize the Mayor to execute the contract for the project; and,
3. Authorize staff to execute change orders, if necessary, in an amount not to exceed the contingency reserve of \$3,249.70, which is 10% of the original contract amount.

\*\*\*\*\*END OF CONSENT CALENDAR\*\*\*\*\*

## 10. DISCUSSION ITEMS

- A. Consolidated Disposal's Public Education and Outreach Program** (City Manager)  
This report provides the details related to the Public Education and Outreach Program to be conducted by Consolidated Disposal as a provision of its five-year contract.

Recommendation: Receive and file or alternatively direct staff accordingly.

**B. Setting the Dates for Two Community Meetings to Discuss the Reduction of Tax Rate and Modernization of the Current Telephone Users Tax**

At the May 21, 2012 meeting, the City Council discussed the telephone user's tax issue and, specifically, whether to move forward with conducting two community meetings in June. In order to make the final determination, the Council directed staff to compile the following information:

1. An analysis of the response to local ballot measures from various cities that have maintained or lowered their telephone users tax to determine the impact in those cities.
2. A critical path of dates to consider before the measure is placed on the ballot.

Recommendation: Staff seeks authority to move ahead with the planning and execution of two community meetings in June, 2012 to educate the community, answer questions, solicit input and determine placement of the measure on the ballot. Staff views this as an issue brought forward to protect General Fund revenue and one that requires broad community support to succeed.

**11. MAYOR AND COUNCIL INITIATED BUSINESS**

**Council Announcements**

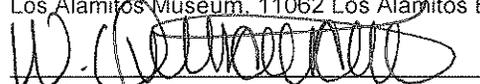
At this time, Council Members may also report on items not specifically described on the Agenda that are of interest to the community, provided no action or discussion is taken except to provide staff direction to report back or to place the item on a future Agenda.

**12. ITEMS FROM THE CITY MANAGER**

**13. ADJOURNMENT**

The next meeting of the City Council is scheduled for **Monday, June 18, 2012**, in the City Council Chambers.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the following locations: Los Alamitos City Hall, 3191 Katella Ave.; Los Alamitos Community Center, 10911 Oak Street; and, Los Alamitos Museum, 11062 Los Alamitos Blvd.; not less than 72 hours prior to the meeting.

  
Windmera Quintanar  
Department Secretary

5/31/12  
Date

# City of Los Alamitos

## Agenda Report Special Orders of the Day

June 4, 2012  
Item No: 5A

**To:** Mayor Troy D. Edgar & Members of the City Council  
**Via:** Angie Avery, City Manager  
**From:** Windmera Quintanar, Department Secretary  
**Subject:** Interview Traffic Commission Applicant

**Summary:** This report provides relevant information by which the City Council may appoint a member to the Traffic Commission vacancy.

### Recommendation:

1. Interview the following applicant; and,  
6:45 Richard Murphy
2. Make an appointment to the Traffic Commission; or,
3. Action as Council deems appropriate.

### Background

The Los Alamitos Municipal Code provides for the appointment of residents to City Boards and Commissions. City Council policy has determined interested parties, including incumbents, need to submit an application for consideration by the Council. All applicants are interviewed before the Council in an open setting.

### Discussion

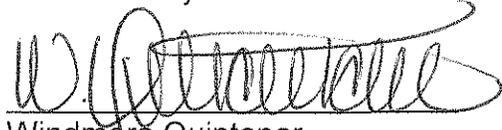
One unexpected vacancy has occurred on the Traffic Commission. Availability Notices were posted at City Facilities, on the City's Website, through Channel-3, and copies were provided to the press inviting residents to apply for this position. The recruitment period was from early March to April 18, 2012. One application was received from Richard Murphy.

At this time, it is appropriate to conduct the applicant interview so an appointment may be considered.

## Fiscal Impact

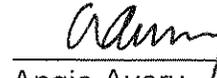
None.

Submitted By:



Windméra Quintanar  
Department Secretary

Approved By:



Angie Avery  
City Manager

Attachment: 1. Richard Murphy - Application & Interview Questions



# CITY OF LOS ALAMITOS

RECEIVED  
CITY OF LOS ALAMITOS

2012 APR 18 PM 3:39

## TRAFFIC COMMISSION APPLICATION

Applicant's name Los Alamitos CA 90720

Applicant's address [REDACTED]  
(You must reside within City limits)

Home telephone [REDACTED] Work telephone [REDACTED] Years Lived in Los Alamitos 48

Previous service on any Commission/Board? No Which one? \_\_\_\_\_ When? \_\_\_\_\_

Are you available to attend evening meetings? YES

Do you presently contract any services or are you otherwise employed by the City of Los Alamitos? No

If so, what is the nature of the contract or employment? \_\_\_\_\_

**Please describe how your qualifications and skills would benefit the Personnel Commission:**

*I AM A LIFELONG RESIDENT OF LOS ALAMITOS WHO THINKS THAT TRAFFIC IS OUR NUMBER ONE PROBLEM. I WOULD LIKE TO ASSIST IN OUR EFFORT TO REDUCE TRAFFIC IN OUR CITY*

**Please describe your educational background and list any professional or vocational licenses/certificates:**

*BA ACCOUNTING LOYOLA MARYMOUNT UNIV  
STATE OF CA REAL ESTATE BROKER'S LICENSE  
STATE OF CA CERTIFIED PUBLIC ACCOUNTANT*

*[Signature]*  
Signature Richard Murphy

4-18-12  
Date

June 4, 2012

**INTERVIEW QUESTIONS FOR  
TRAFFIC COMMISSION**

**RICHARD MURPHY**

1. What special traits, characteristics or experience do you bring to the Traffic Commission?
  
  
  
  
  
  
  
  
  
  
2. Why do you want to serve on the Traffic Commission?
  
  
  
  
  
  
  
  
  
  
3. What do you think is/are the most significant issue(s) facing the Traffic Commission?
  
  
  
  
  
  
  
  
  
  
4. In your own words, what do you feel is the role of the Traffic Commission in Los Alamitos?
  
  
  
  
  
  
  
  
  
  
5. When considering actions by the Traffic Commission, how do you balance the best interest of the entire community against the likes/dislikes of yourself, your friends or your neighbors?

**CITY OF LOS ALAMITOS**  
**Register of Major Expenditures**  
**June 4, 2012**

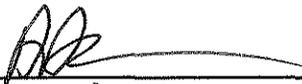
**Pages:**

01	\$ 118,076.85	Major Warrants	06/04/2012
	\$ 138,011.08	Payroll	05/25/2012
	\$ 152,873.92	Payroll Benefits	05/25/2012

**Total      \$ 408,961.85**

**Statement:**

I hereby certify that the claims or demands covered by the foregoing listed warrants have been audited as to accuracy and availability of funds for payment thereof. Certified by Anita Agramonte, Finance Director.



\_\_\_\_\_  
 this 30<sup>th</sup> day of May, 2012

VENDOR SORT KEY	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
MCPEEK'S DODGE OF ANAHEIM	PURCHASE 2012 CHARGER	GARAGE FUND	GARAGE	25,965.73
			TOTAL:	25,965.73
SOUTHERN CALIFORNIA EDISON	TRAFFIC SIGS/ST LIGHTS	GENERAL FUND	STREET MAINTENANCE	13,554.58
	SLO-PITCH FLD/LAUREL PRK	GENERAL FUND	PARK MAINTENANCE	361.35
	MCAULIFFE PARK	GENERAL FUND	PARK MAINTENANCE	292.33
	PUMP STATIONS	GENERAL FUND	BUILDING MAINTENANCE	332.89
	CITY HALL	GENERAL FUND	BUILDING MAINTENANCE	657.66
	POLICE STATION	GENERAL FUND	BUILDING MAINTENANCE	1,335.26
	COMMUNITY CENTER	GENERAL FUND	BUILDING MAINTENANCE	1,635.80
			TOTAL:	18,169.87
WILLDAN ENGINEERING	CITY ENGINEERING SERVICES	GENERAL FUND	CITY ENGINEER	18,810.00
	PLAN CHECK	GENERAL FUND	CITY ENGINEER	6,340.00
	ADA ACCESS RAMPS	C.D.B.G	CAPITAL PROJECTS	2,470.00
	RESIDENT STREET IMPROVE	GAS TAX	CAPITAL PROJECTS	4,395.00
	CERRITOS AVE/605 FWY	MEASURE M	CAPITAL PROJECTS	23,180.00
	BUSINESS STREET IMPROVE	MEASURE M	CAPITAL PROJECTS	5,731.25
	RESIDENT STREET IMPROVE	MEASURE M	CAPITAL PROJECTS	3,800.00
	BUSINESS STREET IMPROVE	TRAFFIC IMPROVEMEN	CAPITAL PROJECTS	5,700.00
	RESIDENT STREET IMPROVE	TRAFFIC IMPROVEMEN	CAPITAL PROJECTS	3,515.00
			TOTAL:	73,941.25

===== FUND TOTALS =====

10	GENERAL FUND	43,319.87
19	C.D.B.G	2,470.00
20	GAS TAX	4,395.00
26	MEASURE M	32,711.25
44	TRAFFIC IMPROVEMENT	9,215.00
50	GARAGE FUND	25,965.73
-----		
	GRAND TOTAL:	118,076.85
-----		

## MINUTES OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS

SPECIAL MEETING – May 21, 2012

### 1. CALL TO ORDER

The City Council met in Special Session at 5:01 p.m., Monday, May 21, 2012, in the Council Chambers, 3191 Katella Avenue, Mayor Pro Tem Poe presiding.

### 2. ROLL CALL

**Present:** Council Members: Graham-Mejia, Kusumoto, Stephens, Mayor Pro Tem Poe, Mayor Edgar (arrived at 5:18 p.m.)

**Absent:** Council Members: None

**Present:** Staff: Angie Avery, City Manager  
Anita Agramonte, Finance Director  
Tony Brandyberry, PW Superintendent  
Dave Hunt, City Engineer  
Corey Lakin, Community Services Director  
Todd Mattern, Police Chief  
Steven Mendoza, Community Development Director  
Cassandra Palmer, Support Services Manager  
Windmera Quintanar, Department Secretary

### 3. ORAL COMMUNICATIONS

Mayor Pro Tem Poe opened the meeting for Oral Communications. There being no one present wishing to speak, Mayor Pro Tem Poe closed the meeting for Oral Communications.

### 4. SPECIAL ORDERS OF THE DAY

#### A. Review of the Fiscal Year 2012-13 Special Revenue, Debt Service, Capital Improvement Program, and Internal Service Funds Proposed Budgets

This report provided the City Council with the preliminary 2012-13 Proposed Operating and Capital Improvement Budget.

Finance Director Agramonte provided a PowerPoint presentation and answered questions from the City Council.

Public Works Superintendent Brandyberry gave a brief overview of the Garage Fund.

Support Services Manager Palmer gave a brief overview of the Technology Fund.

City Council and Staff discussed the following topics:

- State's projected revenue estimate from Gas Tax funds will remain level
- Via El Mercado Capital Improvement Project (CIP) had begun construction
- Options for funding the School Resource Officer at Los Alamitos High School
- Updating the policy for the Garage Fund and adopting a formal policy
- Status of the Residential Street Plan for street repairs would be completed in Fiscal Year 2012/13, with the goal of continued routine maintenance through Measure M and Gas Tax funds
- Tree Program for parkways and replacing the tree at Lexington and Katella
- Streamlining and updating recreation class registration and payment
- Projected revenue increase of .08% based on trends over the fiscal year, economic forecast, and financial consultants
- Anticipated replacement of the antiquated phone system for Fiscal Year 2013/14 and importance of carrying the Technology Fund balance forward. Council stated support for moving forward with the upgrade
- Balance owed for Laurel Park was approximately \$3.11 million and was the only debt the City owes. Cannot be paid off without early penalties
- Constantly evolving technology and the need to stay current with the trends to continue to provide customer service and remain efficient
- Using the Park Development Fund to repave the basketball court at Orville Lewis Park
- Comprehensive plan to address Citywide sidewalks
- Options for funding additional bus shelters and repaving Orville Lewis basketball court
- Highlands Neighborhood Improvements were carried over due to the project had been designed, but construction was not complete

Mayor Edgar opened the item for public comment. There being no one present wishing to speak, Mayor Edgar closed the item for public comment.

City Council and Staff discussed the following topics:

- Continued use of Community Block Grant Funds (CDBG) for alley improvements

- Possibility of decreasing the proposed projects from the Building Fund to ensure funding for Orville Lewis Park basketball court repaving
- Support for repairing the Museum roof
- Concern for signal timing at Rossmoor Highlands; Lexington and Katella; and Walker and Katella. Update of Orange County Transportation Authority's (OCTA) project along Katella.
- Support for keeping the Residential Street Improvement Fund
- Depreciation of technology items depended on the type of asset

Motion/Second: Poe/Stephens  
 Unanimously Carried: The City Council:

1. Reviewed the Fiscal Year 2012/13 Special Revenue, Debt Service, Capital Projects, and Internal Service Funds estimated revenues and proposed expenditures as detailed in Attachments 1 through 10; and,
2. Directed staff to adjust the proposed budget to fund the addition of Bus Shelters from the Traffic Improvement Fund; and,
3. Directed staff to adjust the proposed budget to fund the repaving of Orville Lewis Basketball Court from the Building Improvement and Park Development Funds.

**Roll Call Vote**

Council Member Graham-Mejia	Aye
Council Member Kusumoto	Aye
Council Member Stephens	Aye
Mayor Pro Tem Poe	Aye
Mayor Edgar	Aye

**5. CLOSED SESSION**

**Conference with Legal Counsel**

The City Council finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation.

**A. Anticipated Litigation: (G.C. 54956.9(b))**

A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, there is a significant exposure to litigation against the City based upon facts and circumstances that might result in litigation but which the City believes are not yet known to potential plaintiff or plaintiffs. G.C. 54956.9(b)(3)(A)

**B. Initiation of Litigation: G.C. 54956.9(c)**

One Item

**RECESS**

The City Council recessed into Closed Session at 6:33 p.m.

**RECONVENE**

The City Council reconvened in Regular Session at 7:16 p.m.

Mayor Edgar stated there was no reportable action.

**6. ADJOURNMENT**

The City Council adjourned at 7:16 p.m. The next meeting of the City Council is scheduled for **Monday, May 21, 2012, at 7:00 p.m.**, in the City Council Chambers.

---

Troy D. Edgar, Mayor

ATTEST:

---

Windmera Quintanar, Department Secretary

## MINUTES OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS

REGULAR MEETING – May 21, 2012

**1. CALL TO ORDER**

The City Council met in Regular Session at 7:17 p.m., Monday, May 21, 2012, in the Council Chambers, 3191 Katella Avenue, Mayor Edgar presiding.

**2. ROLL CALL**

**Present:** Council Members: Graham-Mejia, Kusumoto, Stephens, Mayor Pro Tem Poe, Mayor Edgar

**Absent:** Council Members: None

**Present:** Staff: Angie Avery, City Manager  
Sandra J. Levin, City Attorney  
Anita Agramonte, Finance Director  
Dave Hunt, City Engineer  
Corey Lakin, Community Services Director  
Todd Mattern, Police Chief  
Steven Mendoza, Community Development Director  
Windmera Quintanar, Department Secretary

**3. PLEDGE OF ALLEGIANCE**

Council Member Kusumoto led the Pledge of Allegiance.

**4. INVOCATION**

Mayor Edgar gave the invocation.

**5. PRESENTATIONS**

**A. Presentation of Certificates of Recognition to Instructor Yin Liu and the Los Alamitos Portrait Workshop Class First Place Winners**

Mayor Edgar gave a brief background on the Portrait Workshop Class and invited Instructor Liu to speak about the class and awards. The City Council presented Certificates of Recognition to the First Place winners.

**B. PowerPoint Presentation by Aaron Berenschot, OC Crime Stoppers Coordinator, Introduction of the Organization to the City Council**

Chief Mattern gave a brief introduction of the organization and introduced Mr. Berenschot. Mr. Berenschot gave a PowerPoint presentation and answered questions from the City Council.

**6. ORAL COMMUNICATIONS**

Mayor Edgar opened the meeting for Oral Communications.

Janelle Godges, Southern California Edison (SCE) representative, gave a brief update on energy conservation during the summer months.

Mark Wattman, resident, stated concern for the alleys between Green and Howard and Noel and Bloomfield.

Alice Jempsa, resident, stated concern for the lack of response from Long Beach Animal Control in regards to a deceased opossum.

J.M. Ivler, resident, stated support for a restaurant incentive program and increasing sales tax.

Mayor Edgar closed the meeting for Oral Communications.

**7. REGISTER OF MAJOR EXPENDITURES**

Motion/Second: Poe/Stephens

Unanimously Carried: The City Council approved the Register of Major Expenditures for May 21, 2012, in the amount of \$265,607.05.

**Roll Call Vote**

Council Member Graham-Mejia	Aye
Council Member Kusumoto	Aye
Council Member Stephens	Aye
Mayor Pro Tem Poe	Aye
Mayor Edgar	Aye

**8. CONSENT CALENDAR**

All Consent Calendar items may be acted upon by one motion unless a Council Member requests separate action on a specific item.

Council Member Graham-Mejia pulled item 8A.

Mayor Pro Tem Poe pulled item 8H.

Motion/Second: Graham-Mejia/Stephens

Unanimously Carried: The City Council approved the following Consent Calendar items.

\*\*\*\*\*CONSENT CALENDAR\*\*\*\*\*

- B. Warrants** (Finance)  
Approved the Warrants for May 21, 2012, in the amount of \$71,379.07.

**C. Resolutions Pertaining to the November 6, 2012, General Municipal Election** (City Clerk)

The City of Los Alamitos General Municipal Election will be held on Tuesday, November 6, 2012. It is City policy to consolidate the local election with the County of Orange. In order to enable such consolidation, it was necessary to adopt resolutions calling and giving notice of the election, requesting consolidation with the County, and adopting regulations pertaining to materials prepared by any candidate for a municipal election, including costs of candidates' statements.

The City Council:

1. Adopted Resolution No. 2012-04, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA"; and,
2. Adopted Resolution No. 2012-05, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2012, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE"; and,
3. Adopted Resolution No. 2012-06, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012."

- D. Pool Service and Maintenance Contract** (Recreation)  
This agenda item requested the approval of a professional services agreement with Decksides Pool Service for service and maintenance of the pool.

The City Council authorized the City Manager to execute a contract with Decksides Pool Service for service and maintenance at the pool. This contract was for the second optional extension of a one-year contract with

two optional one-year extensions. The contract originated in FY 2010-2011. The contract is not to exceed \$20,000 annually.

**E. Activities Guide Brochure Printing Contract (Recreation)**

This agenda item requested the approval of a professional services agreement with Weber Printing Company, Inc. to print the Recreation and Community Services Activities Guide.

The City Council authorized the City Manager to execute a contract with Weber Printing Company, Inc. to print the Recreation and Community Services Activities Guide. This contract was for the first year optional extension of a one-year contract with two optional one-year extensions. The original contract originated in FY 2011-2012. The contract is not to exceed \$16,000 annually.

**F. Amendment No. 1 to Professional Services Agreement for Building and Safety Services (Community Development)**

This item is to consider continued services with Charles Abbott Associates to provide Building and Safety services. The current Professional Services Agreement (PSA) will expire on June 30, 2012, but can be extended by mutual agreement.

The City Council authorized the Mayor to execute Amendment No. 1 of the PSA with Charles Abbott Associates for Building and Safety services.

**G. Amendment No. 1 to Professional Services Agreement for City Engineer Services (Community Development)**

This item was to consider continuing services with Willdan Engineering to provide Engineering services. The current Professional Services Agreement (PSA) will expire on June 30, 2012, but can be extended by mutual agreement.

The City Council authorized the Mayor to execute Amendment No. 1 of the PSA with Willdan Engineering for Engineering services.

\*\*\*\*\*END OF CONSENT CALENDAR\*\*\*\*\*

**A. Approval of Minutes (City Clerk)**

1. Approve the Minutes of the Special Meeting of May 7, 2012.
2. Approve the Minutes of the Regular Meeting of May 7, 2012.

Council Member Graham-Mejia stated for the record she did not feel the format of the current minutes was informative and did not give a clear depiction for future Council Members and residents. She stated support for returning to summary minutes.

Motion/Second: Edgar/Stephens

Carried 4/1 (Graham-Mejia cast the dissenting vote): The City Council:

1. Approved the Minutes of the Special Meeting of May 7, 2012.
2. Approved the Minutes of the Regular Meeting of May 7, 2012.

**H. Local Landmark Designation – Los Alamitos Museum (Comm. Dev.)**

This was an item to consider allowing a City owned property to be designated as a local landmark in accordance with Section 17.22 of the Los Alamitos Municipal Code.

Mayor Pro Tem Poe stated she would abstain as she has a perceived Conflict of Interest.

Motion/Second: Graham-Mejia/Stephens

Carried 4/0 (Poe abstained): The City Council authorized the application for the Los Alamitos Museum, 11062 Los Alamitos Boulevard, as a local landmark designation and authorized the City Manager to sign the necessary application.

**9. DISCUSSION ITEMS**

**A. Consideration of a Reduction of Tax Rate and Modernization of the Current Telephone Users Tax (City Manager)**

The City currently receives approximately \$650,000 yearly from the tax on telephone users (TUT). The City's tax is outdated due to new communications technologies and billing practices. As a result, people who use older technologies are paying the tax, while those who use newer, advanced technologies may not get taxed. In addition, similar, outdated taxes in other cities have been the subject of lawsuits. In the event of a successful challenge to the City's tax, the City could lose some or all of the \$650,000 in revenue from the TUT. These revenues pay for numerous City services including police, public works, and parks and recreation.

The remedy for the outdated tax is to modernize the existing ordinance to amend Municipal Code Section 3.20.070 (Telephone User Tax). A modernized ordinance would require annual reporting and public disclosure; modernize the language to treat taxpayers equally regardless of technology used; and use the proceeds to fund general municipal services, such as police, public works, and parks and recreation. The ordinance could also change the rate of the City's tax on communications users (e.g., lowering it from 6% to 5.5%) or leave it the same.

City Manager Avery summarized the staff report, referring to the information contained therein, and answered questions from the City Council.

Finance Director Agramonte gave a brief overview of the fiscal impact.

City Attorney Levin gave a brief overview of the legality of the issue.

The City Council and Staff discussed the following topics:

- Modernizing Telephone Utility Tax (TUT) to protect current revenues and avoid potential litigation
- Discussion regarding maintaining or changing the TUT rate
- Short time frame to add the Measure to the November 6, 2012 ballot
- Importance of community outreach and support
- Modern term for Telephone being Communication and defining Communications Users Tax (CUT) in terms of function, not literal terms
- Due to Proposition 218, approval by 50% plus 1 of the voters is required to pass the ballot measure
- Cost for an Election with a measure ranging from \$12,000 to \$18,000
- Continued services to the City by protecting the revenue from the TUT
- Current proposed legislation in Congress
- Council's desire to see a survey of local jurisdictions that had successfully passed a similar measure
- Intent of modernization was not to increase revenue, but to remain neutral

Mayor Edgar opened the item for public comment.

Richard Murphy, resident, stated concern that if the measure was not approved it would make the City more visible for potential litigation.

Alice Jempsa, resident, stated concern that the intent of the measure needed to be clearly defined as taxes were a difficult issue.

Mayor Edgar closed the item for public comment.

The City Council and Staff discussed the following topics:

- Focusing on asking the community if they want to continue receiving current services paid for by TUT revenue source and if so, the tax needs to be modernized

- Gaining community involvement and support for the measure
- Once the measure is on the ballot, Council cannot be involved in campaigning for a measure and the community would need to be involved in ensuring the measure gets approved, if so desired
- Ad Hoc Committee Members Graham-Mejia and Kusumoto involvement in the public outreach
- City Council's involvement in a community workshop in regards to the Brown Act
- Receiving data from cities that have been through the process to help create a starting point
- Time line for public outreach and adding the ballot measure
- Direction for Staff to survey cities that have passed a similar measure for a sample set of when the tax was passed, when it was enacted, the amount specific to the TUT over a 2 year period
- Non-support for raising taxes
- Staff coming up with data and time frames and presenting the information to Council at a later date
- Using free advertisement (i.e. website, media, press releases) to advertise about the community workshops
- Direction to Staff to bring back a detailed time line and options for the City Council to discuss at the June 4, 2012 City Council meeting

## 10. MAYOR AND COUNCIL INITIATED BUSINESS

### Council Announcements

**Council Member Graham-Mejia** discussed the following topics: direct voicemails for Council Members; Council review of the Public Outreach budget for Consolidated Disposal Services (CDS); follow up regarding low standard of service from Long Beach Animal Control; support for having SCE updates on the website; attendance at Orange County Vector Control meeting; and, possibility of having a measure for the Street Revitalization project.

**Council Member Stephens** discussed the following topics: increase in Vector Control spraying for pest control; update on ADA ramp project; attendance at the Orange County Fire Authority (OCFA) Budget and Finance meeting; and attendance at an Eagle Scout Award Dinner.

**Mayor Pro Tem Poe** discussed the following topics: attendance at the School District Working Group meeting with City Manager Avery and Council Member Graham-Mejia; concern for the lack of response from Long Beach Animal Control; Re-Opening of Laurel Park on June 4<sup>th</sup> at 5:00 p.m.; community support for the new ADA ramps; thanked Staff for a balanced budget; requested OCFA present its short video regarding drowning prevention; complimented the new City website; and, requested the Council meeting be closed in memory of Rush Labourdette.

**Council Member Kusumoto** reported attendance at the Joint Commission meeting.

**Mayor Edgar** discussed the following topics: attendance at the RMC meeting; desire to have Staff investigate possible additional grant funds from the RMC; attendance at the Orange County Sanitation District Board meeting; and, upcoming shift to once a month Council meetings.

There was Council consensus to bring back the Public Outreach budget from the Consolidated Disposal Services contract for Council review.

**11. ITEMS FROM THE CITY MANAGER**

None.

**12. ADJOURNMENT**

The City Council adjourned in memory of Rush Labourdette at 9:27 p.m. The next meeting of the City Council is scheduled for **Monday, June 4, 2012**.

---

Troy D. Edgar, Mayor

ATTEST:

---

Windmera Quintanar, Department Secretary

**CITY OF LOS ALAMITOS**  
**A/P Warrants**  
**June 4, 2012**

Pages:

01-04	\$ 48,240.55	A/P Warrants	06/04/2012
	1,525.31	Retiree Benefits	06/01/2012

**Total**            **\$ 49,765.86**

**Statement:**

I hereby certify that the claims or demands covered by the foregoing listed warrants have been audited as to accuracy and availability of funds for payment thereof. Certified by Anita Agramonte, Finance Director.




---

this 30<sup>th</sup> day of May, 2012

VENDOR SORT KEY	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
AMERICA WEST LANDSCAPE, INC.	LAUREL PRK REHAB-RETENTION	PARK DEVELOPMENT	NON-DEPARTMENTAL	424.95-
	LAUREL PRK REHAB-PAYMENT 4	PARK DEVELOPMENT	CAPITAL PROJECTS	3,742.43
			TOTAL:	3,317.48
AMERICAN RED CROSS	WATER SAFETY KITS	GENERAL FUND	AQUATICS	311.70
			TOTAL:	311.70
CHRIS ANDERSON	TUITION REIMBURSEMENT	GENERAL FUND	PATROL	568.85
			TOTAL:	568.85
ANDERSON ELECTRICAL & LIGHTING SERVICE	ELECTRICAL REPAIR	GENERAL FUND	PARK MAINTENANCE	490.00
	REPLACE RESTROOM FAN	GENERAL FUND	BUILDING MAINTENANCE	625.00
	REPLACE RESTROOM FAN	GENERAL FUND	BUILDING MAINTENANCE	625.00
	INSTALL HAND DRYER	GENERAL FUND	BUILDING MAINTENANCE	745.30
			TOTAL:	2,485.30
BARBARA BANNERMAN	INSTRUCTOR - YOGA	GENERAL FUND	SPECIAL CLASSES	840.32
			SPECIAL CLASSES	593.45
			TOTAL:	1,433.77
BEE REMOVERS	BEE REMOVAL	GENERAL FUND	PARK MAINTENANCE	115.00
			TOTAL:	115.00
SUSAN BROWN	TUITION REIMBURSEMENT	GENERAL FUND	RECORDS	1,560.00
			TOTAL:	1,560.00
BUSINESS PRODUCTS DISTRIBUTORS	COPY PAPER	GENERAL FUND	CITY MANAGER	226.27
	COPY PAPER	GENERAL FUND	ADMINISTRATIVE SERVICE	226.27
	COPY PAPER	GENERAL FUND	POLICE ADMINISTRATION	226.27
	OFFICE SUPPLIES	GENERAL FUND	COMMUNITY DEVEL ADMIN	10.15
	COPY PAPER	GENERAL FUND	COMMUNITY DEVEL ADMIN	226.28
	OFFICE SUPPLIES	GENERAL FUND	COMMUNITY DEVEL ADMIN	19.30
	COPY PAPER	GENERAL FUND	PUBLIC WORKS ADMIN	226.28
	COPY PAPER	GENERAL FUND	RECREATION ADMINISTRAT	226.28
	OFFICE SUPPLIES	GENERAL FUND	RECREATION ADMINISTRAT	32.30
			TOTAL:	1,419.40
	CAL STATE GLASS & MIRROR	RESEALED WINDOW	GENERAL FUND	BUILDING MAINTENANCE
TOTAL:				65.00
CHARLES ABBOTT ASSOCIATES, INC.	BUILDING PERMIT FEES	GENERAL FUND	BUILDING INSPECTION	7,481.94
			NPDES INSPECTIONS	1,440.00
			TOTAL:	8,921.94
CLEANSOURCE	CUSTODIAL SUPPLIES	GENERAL FUND	BUILDING MAINTENANCE	126.01
			BUILDING MAINTENANCE	240.66
			TOTAL:	366.67
COMPUTER SERVICE CO.	SIGNAL REPAIR	GENERAL FUND	STREET MAINTENANCE	1,240.00
			TOTAL:	1,240.00
CPRS DISTRICT 10 - CITY OF CARSON	AQUATIC TRAINING	GENERAL FUND	AQUATICS	600.00
			TOTAL:	600.00
DECKSIDE POOL SERVICE	POOL MAINTENANCE	GENERAL FUND	AQUATICS	1,290.00
			TOTAL:	1,290.00

VENDOR SORT KEY	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
DOG DEALERS, INC.	INSTRUCTOR - DOG OBEDIENCE	GENERAL FUND	SPECIAL CLASSES	323.40
			TOTAL:	323.40
ENVIROSERV	LIGHT BOXES	EECBE GRANT	CAPITAL PROJECTS	76.13
			TOTAL:	76.13
FEDEX	SHIPPING	GENERAL FUND	CITY COUNCIL	30.10
	SHIPPING	GENERAL FUND	CITY COUNCIL	30.10
	SHIPPING	GENERAL FUND	CITY COUNCIL	30.61
			TOTAL:	90.81
CARRI FOX	INSTRUCTOR - DANCE	GENERAL FUND	SPECIAL CLASSES	165.20
	INSTRUCTOR - DANCE	GENERAL FUND	SPECIAL CLASSES	12.60
	INSTRUCTOR - DANCE	GENERAL FUND	SPECIAL CLASSES	27.30
			TOTAL:	205.10
GALLS / LONG BEACH UNIFORM	UNIFORMS	GENERAL FUND	PATROL	189.62
			TOTAL:	189.62
GANAHL LUMBER COMPANY	CASTERS	GENERAL FUND	STREET MAINTENANCE	40.12
	ELECTRICAL PARTS	GENERAL FUND	PARK MAINTENANCE	7.98
	ELECTRICAL PARTS	GENERAL FUND	PARK MAINTENANCE	12.06
	WIRE NUTS	GENERAL FUND	BUILDING MAINTENANCE	19.90
	TOILET PAPER HOLDER	GENERAL FUND	BUILDING MAINTENANCE	9.69
	DRILL KIT	GARAGE FUND	GARAGE	193.94
			TOTAL:	283.69
GLENN E. THOMAS CO.	THERMOSTAT	GARAGE FUND	GARAGE	70.70
			TOTAL:	70.70
GOLDEN STATE WATER COMPANY	BILL CYCLE 04/07-05/08	GENERAL FUND	STREET MAINTENANCE	1,510.11
	BILL CYCLE 04/07-05/08	GENERAL FUND	PARK MAINTENANCE	298.82
	BILL CYCLE 04/07-05/08	GENERAL FUND	BUILDING MAINTENANCE	665.80
			TOTAL:	2,474.73
HARBOR CHEVROLET	TAHOE KEYS	GARAGE FUND	GARAGE	259.48
			TOTAL:	259.48
HEART TO HEART CPR	INSTRUCTOR - BABYSITTING	GENERAL FUND	SPECIAL CLASSES	168.00
			TOTAL:	168.00
IMPERIAL SPRINKLER SUPPLY	LAUREL PRK REHAB-PAYMENT 4	PARK DEVELOPMENT	CAPITAL PROJECTS	502.12
			TOTAL:	502.12
YING LIU	INSTRUCTOR - ART	GENERAL FUND	SPECIAL CLASSES	58.50
	INSTRUCTOR - ART	GENERAL FUND	SPECIAL CLASSES	78.00
			TOTAL:	136.50
LOWE'S	TOILET & TOOLS	GENERAL FUND	BUILDING MAINTENANCE	154.92
			TOTAL:	154.92
MAILFINANCE	POSTAGE MACHINE LEASE	GENERAL FUND	ADMINISTRATIVE SERVICE	166.50
			TOTAL:	166.50
MAR-CO EQUIPMENT COMPANY	FLOOR SCRUBBER PARTS	GARAGE FUND	GARAGE	126.13
			TOTAL:	126.13

VENDOR SORT KEY	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
MISC. VENDOR	REFUND - ORGANIZING CLASS	GENERAL FUND	NON-DEPARTMENTAL	50.00
	REFUND - DANCE CLASS	GENERAL FUND	NON-DEPARTMENTAL	52.00
	REFUND - CRAFTS CLASS	GENERAL FUND	NON-DEPARTMENTAL	15.00
	REFUND - CRAFTS CLASS	GENERAL FUND	NON-DEPARTMENTAL	15.00
	REFUND - CC RENTAL	GENERAL FUND	NON-DEPARTMENTAL	100.00
	REFUND - SOCCER	GENERAL FUND	NON-DEPARTMENTAL	54.00
	TOTAL:			286.00
RICK MOORE	TUITION REIMBURSEMENT	GENERAL FUND	PATROL	1,114.25
	TOTAL:			1,114.25
NEWS ENTERPRISE	BID NOTICE	GARAGE FUND	CAPITAL PROJECTS	551.00
	TOTAL:			551.00
DIANA C. PEREZ	INSTRUCTOR - TODDLER CLASS	GENERAL FUND	SPECIAL CLASSES	195.00
	INSTRUCTOR - TODDLER CLASS	GENERAL FUND	SPECIAL CLASSES	390.00
	TOTAL:			585.00
GARY PITTS	INSTRUCTOR - KARATE	GENERAL FUND	SPECIAL CLASSES	151.90
	INSTRUCTOR - KARATE	GENERAL FUND	SPECIAL CLASSES	236.60
	TOTAL:			388.50
THE PLANNING CENTER	COORDINATION MEETINGS	GENERAL FUND	PLANNING	980.00
	PROJECT WEBSITE	GENERAL FUND	PLANNING	140.00
	DRAFT GENERAL PLAN	GENERAL FUND	PLANNING	6,295.00
	TOTAL:			7,415.00
PRIORITY MAILING SYSTEMS, LLC	MAIL MACHINE INK	GENERAL FUND	ADMINISTRATIVE SERVICE	125.68
	MAIL MACHINE INK	GENERAL FUND	PUBLIC WORKS ADMIN	125.67
	TOTAL:			251.35
RICOH AMERICAS CORPORATION	COPIER LEASE	GENERAL FUND	RECREATION ADMINISTRAT	560.30
	TOTAL:			560.30
SUZANNE ROADY-ROSS	INSTRUCTOR - TAI CHI	GENERAL FUND	SPECIAL CLASSES	139.75
	TOTAL:			139.75
ROSSMOOR CAR WASH	CAR WASHES - P/D	GARAGE FUND	GARAGE	162.96
	CAR WASHES - REC	GARAGE FUND	GARAGE	9.00
	TOTAL:			171.96
SMART & FINAL	KITCHEN SUPPLIES	GENERAL FUND	POLICE ADMINISTRATION	208.70
	TOTAL:			208.70
SPOT LIGHTING SUPPLIES, INC.	LIGHT BULBS	GENERAL FUND	BUILDING MAINTENANCE	60.34
	TOTAL:			60.34
VERIZON CALIFORNIA, INC.	POLICE ALARMS	GENERAL FUND	COMMUNICATIONS TECHNOL	114.76
	TRAFFIC SIGNAL	GENERAL FUND	STREET MAINTENANCE	74.85
	TOTAL:			189.61
VOYAGER FLEET SYSTEMS, INC.	FUEL	GARAGE FUND	GARAGE	7,369.38
	FUEL TAX CREDIT	GARAGE FUND	GARAGE	311.85
	CNG FUEL	GARAGE FUND	GARAGE	247.62
	TOTAL:			7,305.15

VENDOR SORT KEY	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
KENNY WAGNER	INSTRUCTOR - COMPUTER	GENERAL FUND	SPECIAL CLASSES	42.90
	INSTRUCTOR - COMPUTER	GENERAL FUND	SPECIAL CLASSES	28.60
	TOTAL:			71.50
SHANNON ZEEMAN	INSTRUCTOR - SIGN LANGUAGE	GENERAL FUND	SPECIAL CLASSES	19.20
	TOTAL:			19.20

```

===== FUND TOTALS =====
10  GENERAL FUND                35,666.46
30  EECBE GRANT                  76.13
40  PARK DEVELOPMENT             3,819.60
50  GARAGE FUND                  8,678.36
-----
                                GRAND TOTAL: 48,240.55
-----

```

TOTAL PAGES: 4

# City of Los Alamitos

## Agenda Report Consent Calendar

June 4, 2012  
Item No: 9C

**To:** Mayor Troy D. Edgar & Members of the City Council

**Via:** Angie Avery, City Manager

**From:** David L. Hunt, City Engineer  
Steven A. Mendoza, Director of Community Development

**Subject:** Approval of Plans and Specifications, and Authorization to Bid for Old Town West Street Improvement Project (CIP No. 11/12-02)

**Summary:** This report recommends actions to begin facilitating the construction of the Old Town West Street Improvement Project.

### Recommendations:

1. Approve the plans and specifications for the construction of the Old Town West Street Improvement Project (CIP No. 11/12-02); and,
2. Authorize staff to advertise and solicit bid proposals.

### Background

This project is located in Old Town West and consists of American with Disabilities Act (ADA) ramps, and street improvements for the area. It is part of the Fiscal Year 2011/12 CIP projects for ADA Ramps and residential street rehabilitation. The main components of the project are:

Old Town West and East Replace/upgrade ADA Accessibility Ramps - This tract currently has thirty (30) ADA accessible ramps that do not meet current ADA specifications. This project would upgrade the ramps and bring them into current standards in order to comply with state and federal guidelines.

Walnut Street, Chestnut Street, and Florista Street Improvements in Old Town West - Part of the project consists of removing and replacing curb and gutter, several driveways and alley aprons, and a 1-½ asphalt overlay over two (2) of the streets, along with new signing and striping where necessary, per below:

- Walnut Street between Katella Avenue and Florista Street  
Construct 1,000 feet of curb and gutter, eight (8) driveway aprons and a 1-½ inch asphalt overlay

- Chestnut Street between Katella Avenue and Florista Street  
Construct 320 feet of curb and gutter, one (1) driveway apron
- Florista Street between Oak Street and Los Alamitos Boulevard  
Construct 660 feet of curb and gutter, ten (10) driveway aprons, two (2) alley aprons, and a 1-½ inch asphalt overlay

## Discussion

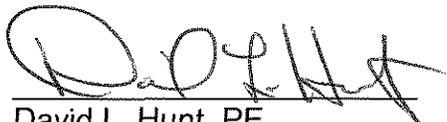
Following is an approximate timeline for the completion of the Old Town West Street Improvement Project:

- 6/4/12 Approval of plans & specifications by the City Council
- 6/7/12 Advertise project
- 6/28/12 Bid opening
- 7/16/12 Award of contract
- 7/17/12 Start of construction
- 8/31/12 End of construction

## Fiscal Impact

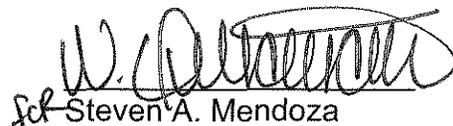
The construction and inspection estimate for this project is \$400,000. Last year's Community Development Block Grant (CDBG) fund has \$8,000 left over from the Apartment Row fund that will be used for ADA ramps. Fiscal Year 2012/13 CDBG funds of \$146,325 will be used for the ADA ramps and curb and gutter; \$28,804 from Fiscal Year 2012/13 Gas Tax funds, and \$224,871 from Fiscal Year 2012/13 Measure M funds will be used for the street rehabilitation.

Prepared By:



David L. Hunt, PE  
City Engineer

Reviewed By:



for Steven A. Mendoza  
Director of Community Development

Approved By:



Angie Avery  
City Manager

Attachment: 1. Plans and Specifications are available for review in the City Clerk's Office

# City of Los Alamitos

## Agenda Report Consent Calendar

June 4, 2012  
Item No: 9D

**To:** Mayor Troy D. Edgar & Members of the City Council

**Via:** Angie Avery, City Manager

**From:** David L. Hunt, City Engineer  
Steven A. Mendoza, Director of Community Development

**Subject:** Award Bid for Public Works Yard Gas Tanks Removal Project Improvements (CIP No. 11/12-01)

**Summary:** This report recommends action to begin facilitating the construction of the Public Works Yard Gas Tanks Removal Project (CIP No. 11/12-01) which consists of removing two (2) 5,000-gallon Plasteel tanks.

### Recommendations:

1. Award construction of the Public Works Yard Gas Tanks Removal Project (CIP No. 11/12-01) to A+ Environmental Solutions for \$32,496.99; and,
2. Authorize the Mayor to execute the contract for the project; and,
3. Authorize staff to execute change orders, if necessary, in an amount not to exceed the contingency reserve of \$3,249.70, which is 10% of the original contract amount.

### Background

Public Works Yard Gas Tanks Removal Project Improvements is part of the Capital Improvement Program (CIP) list for 2011/2012 approved by the City Council on June 20, 2011.

This underground storage tank (UST) system is comprised of two (2) 5,000-gallon Plasteel tanks. Both gasoline and diesel product have been stored at various times in the past in the tanks

## Discussion

The following is an approximate timeline for the completion of the project:

- 6/4/12 Award of contract
- 6/11/12 Start of construction
- 8/3/12 End of construction

## Project Bid Results

Notices announcing the solicitation of bids for this project were posted in the normal locations within the City, advertised in the News-Enterprise and in the F.W. Dodge publication known as the "Green Sheet". The bids for the construction of the Public Works Yard Gas Tanks Removal Project (CIP No. 11/12-01) were publicly opened on April 26, 2012, at 2:00 p.m. From the seven (7) total bids received, staff determined the construction bid submitted by A+ Environmental Solutions, to be the lowest responsible bid, with the total bid amount of \$32,496.99. The bid results are shown below.

Bidder	Total Base Bid
A+ Environmental Solutions	\$32,496.99
Tafoya & Associates	\$33,771.00
Fueling & Service Technology	\$37,170.00
American Integrated Service	\$37,960.00
Fleming Environmental	\$39,035.00
GEMS Environmental	\$59,619.16
CES	\$87,000.00

## Fiscal Impact

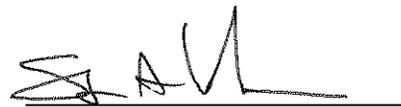
Public Works Yard Gas Tanks Removal Project Improvements were budgeted in the 2011/2012 CIP projects and is using the Garage Fund. The construction estimate for this project is \$35,000. The CIP has budgeted \$40,000 for construction.

Prepared By:



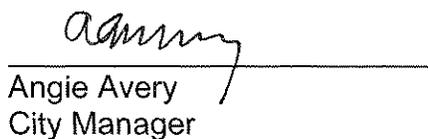
David Hunt, PE  
City Engineer

Reviewed By:



Steven Mendoza  
Director of Community Development

Approved By:



Angie Avery  
City Manager

Attachment: 1. Contract - A+ Environmental Solutions

**SECTION D  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

**CONTRACT INFORMATION AND DOCUMENTS**

**CONTRACT AGREEMENT**

**PAYMENT BOND**

**FAITHFUL PERFORMANCE BOND**

**MAINTENANCE BOND**

**NON-COLLUSION AFFIDAVIT**

**WORKER'S COMPENSATION INSURANCE CERTIFICATE**

**INSURANCE ENDORSEMENT**

**STATEMENT RE INSURANCE COVERAGE**

**STATEMENT RE THE CONTRACTOR'S LICENSING LAWS**

# ARTICLES OF AGREEMENT

## CITY YARD UST REMOVAL CIP No. 11/12-01, AGREEMENT IN THE CITY OF LOS ALAMITOS, CALIFORNIA

THIS CITY YARD UST REMOVAL, CIP No. 11/12-01, AGREEMENT ("AGREEMENT") is made and entered into for the above-stated project this 21<sup>st</sup> day of May, 2012, BY AND BETWEEN the City of Los Alamitos, a municipal corporation, hereafter designated as "AGENCY", and A+ Environmental Solutions, LLC, a limited liability company, hereafter designated as "CONTRACTOR."

WITNESSETH that AGENCY and CONTRACTOR have mutually agreed as follows:

### **ARTICLE I: Contract Documents**

The contract documents for the CITY YARD UST REMOVAL, CIP No. 11/12-01, shall consist of the Notice Inviting Sealed Bids, Instructions To Bidders, Bid Proposal, Bid Schedule, Standard Specifications, Special Provisions, and all referenced specifications, details, standard drawings, and appendices; together with two signed copies of the AGREEMENT, two signed copies of required bonds; one copy of the insurance certificates, permits, notices, and affidavits; and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to ensure its completion in an acceptable manner (collectively referred to herein as the "Contract Documents"). All of the provisions of the Contract Documents are made a part hereof as though fully set forth herein.

### **ARTICLE II: Scope of Work**

For and in consideration of the payments and agreements to be made and performed by AGENCY, CONTRACTOR agrees to furnish all materials and equipment and perform all work required for the above-stated project, and to fulfill all other obligations as set forth in the aforesaid contract documents.

AGENCY hereby employs CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for the prices provided herein, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth in this AGREEMENT.

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to this AGREEMENT, CONTRACTOR offers and agrees to assign to the AGENCY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (Section 16700, et seq.) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

### **ARTICLE III: Compensation**

A. CONTRACTOR agrees to receive and accept the prices set forth in the Bid Proposal and Bid Schedule as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. In no event shall the total compensation and costs payable to CONTRACTOR under this Agreement exceed the sum of Thirty-Two Thousand Four Hundred Ninety-Six Dollars and Ninety-Nine Cents (\$32,496.99) unless specifically approved in advance and in writing by AGENCY.

Such compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid Contract Documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

B. This AGREEMENT is subject to the provisions of Article 1.7 (commencing at Section 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to Contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with that Article. This AGREEMENT hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

C. At the request and expense of CONTRACTOR, securities equivalent to the amount withheld shall be deposited with AGENCY, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to CONTRACTOR upon Agency's confirmation of CONTRACTOR'S satisfactory completion of this AGREEMENT. At any time during the term of this AGREEMENT CONTRACTOR may, at its own expense, substitute securities for funds otherwise withheld as retention (or the retained percentage) in accordance with Public Contract Code § 22300.

### **ARTICLE IV: Labor Code**

AGENCY and CONTRACTOR acknowledge that this AGREEMENT is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and public agencies and agree to be bound by all the provisions thereof as though set forth fully herein. Full compensation for conforming to the requirements of the Labor Code and with other Federal, State and local laws related to labor, and rules, regulations and ordinances which apply to any work performed pursuant to this AGREEMENT is included in the price for all contract items of work involved.

This AGREEMENT is further subject to prevailing wage law, including, but not limited to, the following:

A. The CONTRACTOR shall pay the prevailing wage rates for all work performed under the AGREEMENT. When any craft or classification is omitted from the general prevailing wage determinations, the CONTRACTOR shall pay the wage rate of the craft or classification most closely related to the omitted classification. The CONTRACTOR shall forfeit as a penalty to AGENCY \$50.00 or any greater penalty provided in the Labor Code for each Calendar Day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under the AGREEMENT in violation of the provisions of the Labor Code whether such worker is employed in the execution of the work by CONTRACTOR or by any Subcontractor under CONTRACTOR. In addition, CONTRACTOR shall pay each worker the difference between such prevailing wage rates and the amount paid to each worker for each Calendar Day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

B. CONTRACTOR shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that CONTRACTOR is responsible for compliance with Section 1777.5 by all of its subcontractors.

C. Pursuant to Labor Code § 1776, CONTRACTOR and any subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with this AGREEMENT. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code §§ 1811, and 1815 for any work performed by his or her employees on the public works project. The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code § 1776.

D. This AGREEMENT is further subject to 8-hour work day and wage and hour penalty law, including, but not limited to, Labor Code Sections 1810 and 1813, as well as California nondiscrimination laws, as follows:

CONTRACTOR shall strictly adhere to the provisions of the Labor Code regarding the 8-hour day and the 40-hour week, overtime, Saturday, Sunday and holiday work and nondiscrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex or sexual orientation, except as provided in Section 12940 of the Government Code. Pursuant to the provisions of the Labor Code, eight hours' labor shall constitute a legal day's work. Work performed by CONTRACTOR's employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. CONTRACTOR shall forfeit as a penalty to AGENCY \$25.00 or any greater penalty set forth in the Labor Code for each worker employed in the execution of the work by CONTRACTOR or by any Subcontractor of CONTRACTOR, for each Calendar Day during which such worker is required or permitted to the work more than eight hours in one Calendar Day or more than 40 hours in any one calendar week in violation of the Labor Code.

E. This AGREEMENT is subject to Public Contract Code Section 6109: CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform work on the project pursuant to Sections 1777.1 or 1777.7 of the Labor Code.

**ARTICLE V: Work Site Conditions**

A. In compliance with and pursuant to Government Code Section 4215, AGENCY shall assume the responsibility, as between the parties to this AGREEMENT, for the timely removal, relocation, or protection of existing main- or trunk-line utility facilities located on the site of any construction project that is a subject of this AGREEMENT, if such utilities are not identified by AGENCY in the plans and specifications made a part of the invitation for bids. The Contract Documents shall include provisions to compensate CONTRACTOR for the costs of locating, repairing damage not due to the failure of CONTRACTOR to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. CONTRACTOR shall not be assessed liquidated damages for delay in completion of the project, when such delay was caused by the failure of AGENCY or the owner of a utility to provide for removal or relocation of such utility facilities.

B. To the extent that the work requires trenches in excess of five feet (5') and is estimated to cost more than \$25,000, prior to any excavation, CONTRACTOR must provide the AGENCY, or a registered civil or structural engineer employed by the AGENCY to whom authority has been delegated to accept such plans, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer. Nothing in this section shall be deemed to allow the use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders.

C. This AGREEMENT is further subject to Public Contract Code Section 7104 with regard to any trenches deeper than four feet (4') involved in the proposed work as follows:

CONTRACTOR shall promptly, and before the following conditions are disturbed, notify AGENCY, in writing, of any:

(1) Material that CONTRACTOR believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated by all available information provided prior to the deadline for submission of bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

AGENCY shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or involve hazardous waste, and cause a decrease or increase in CONTRACTOR's cost of, or the time required for, performance of any part of the work, AGENCY shall issue a change order under the procedures described in this AGREEMENT.

In the event that a dispute arises between AGENCY and CONTRACTOR whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in CONTRACTOR's cost of, or time required for, performance of any part of the work, CONTRACTOR shall not be excused from any scheduled completion date provided in the AGREEMENT, but shall proceed with all work to be performed under the AGREEMENT. CONTRACTOR shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

#### **ARTICLE VI: Insurance**

A. With respect to performance of work under this AGREEMENT, CONTRACTOR shall maintain, and shall require all of its subcontractors to maintain, insurance as required by Section E "Standard Specifications" of the Contract Documents.

B. This AGREEMENT is further subject to Workers' Compensation obligations, including, but not limited to, California Labor Code Sections 1860 and 1861 as follows:

CONTRACTOR shall take out and maintain, during the life of this contract, Worker's Compensation Insurance for all of CONTRACTOR's employees employed at the site of improvement; and, if any work is sublet, CONTRACTOR shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by CONTRACTOR. CONTRACTOR and any of CONTRACTOR's subcontractors shall be required to provide AGENCY with a written statement acknowledging its obligation to secure payment of Worker's Compensation Insurance as required by Labor Code § 1861; to wit: 'I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.' If any class of employees engaged in work under this AGREEMENT at the site of the Project is not protected under any Worker's Compensation law, CONTRACTOR shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. CONTRACTOR shall indemnify and hold harmless AGENCY for any damage resulting from failure of either CONTRACTOR or any subcontractor to take out or maintain such insurance.

**ARTICLE VII: Indemnification**

To the fullest extent permitted by law, CONTRACTOR shall, at its sole cost and expense, fully defend, indemnify and hold harmless AGENCY, its authorized representatives and their respective subsidiaries, affiliates, members, directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, and expenses, including but not limited to any fees of accountants, attorneys or other professionals (collectively "Liabilities"), arising out of, in connection with, resulting from or related to, any act, omission, fault or negligence of CONTRACTOR, CONTRACTOR's Representative, or any of its officers, agents, employees, Subcontractors or Suppliers, or any person or organization directly or indirectly employed by any of them (Collectively, the "Indemnitors"), in connection with or relating to or claimed to be in connection with or relating to the work performed under this AGREEMENT.

If CONTRACTOR is a joint venture or partnership, each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of CONTRACTOR that are assumed under or arise out of this AGREEMENT. Each of such venturers or partners waives notice of the breach or non-performance of any undertaking or obligation of CONTRACTOR contained in, resulting from or assumed under this AGREEMENT, and the failure to give any such notice shall not affect or impair such venturer's or partner's joint and several liability hereunder.

**ARTICLE VIII: Binding Effect**

AGENCY and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto and to its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents. This AGREEMENT is not assignable nor the performance of either party's duties delegable without the prior written consent of the other party. Any attempted or purported assignment or delegation of any of the rights of obligations of either party without the prior written consent of the other shall be void and of no force and effect.

**ARTICLE IX: Dispute Resolution**

A. In the event of a dispute arising out of the terms of this AGREEMENT, including any action brought to declare the rights granted herein or to enforce any of the terms of this AGREEMENT, the party prevailing in such dispute shall be entitled to all reasonable costs and litigation expenses actually incurred, including fees of attorneys and expert witnesses. Any court action arising out of this AGREEMENT shall be filed in the Los Angeles County Superior Court. Any alternative dispute resolution proceeding arising out of this AGREEMENT shall be heard in the City of Los Angeles or the City of Los Alamitos, California.

B. AGENCY shall have full authority to compromise or otherwise settle any claim relating to this AGREEMENT or any part hereof at any time. AGENCY shall provide timely notification to CONTRACTOR of the receipt of any third-party claim relating to this AGREEMENT. AGENCY shall be entitled to recover its reasonable costs incurred in providing the notification required by this section.

C. This AGREEMENT is further subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by Contractor, for the response to such claims by the Agency, for a mandatory meet and confer conference upon the request of Contractor, for mandatory nonbinding mediation in the event litigation is commenced, and for mandatory judicial arbitration upon the parties' failure to resolve the dispute through mediation. This AGREEMENT hereby incorporates the provisions of Article 1.5 as though fully set forth herein.

**ARTICLE X: Independent Contractor**

CONTRACTOR is and shall at all times remain as to AGENCY, a wholly independent contractor. Neither AGENCY nor any of its agents shall have control of the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of AGENCY.

**ARTICLE XI: Taxes**

CONTRACTOR is responsible for paying all retail, sales and use, transportation, export, import, special or other taxes and duties applicable to, and assessable against any work, materials, equipment, services, processes and operations incidental to or involved in this AGREEMENT. The CONTRACTOR is responsible for ascertaining and arranging to pay such taxes and duties. The prices established in this AGREEMENT shall include compensation for any taxes the CONTRACTOR is required to pay by laws and regulations in effect as of the execution of this AGREEMENT.

**ARTICLE XII: Notices**

All notices and communications shall be sent in writing to the parties at the following addresses:

AGENCY: Dave Hunt, City Engr.

CITY OF LOS ALAMITOS  
3191 Katella Ave.  
Los Alamitos, CA 90720

CONTRACTOR: Ms. Cathryn Houghton,  
Executor of the Estates of  
David and Dorothy Houghton  
A+ Environmental Solutions, LLC  
6898 Soquel Ave.  
Santa Cruz, CA 95062

**ARTICLE XIII: Entire Agreement**

This AGREEMENT supersedes any and all other agreements, either oral or written, between the parties and contains all of the covenants and agreements between the parties pertaining to the work of improvements described herein. Each party to this AGREEMENT acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statement or promise not contained in this AGREEMENT shall not be valid

or binding. Any modification of this AGREEMENT will be effective only if signed by the party to be charged.

The benefits and obligations of this AGREEMENT shall inure to and be binding upon the representatives, agents, partners, heirs, successors and assigns of the parties hereto. This AGREEMENT shall be construed pursuant to the laws of the State of California.

#### **ARTICLE XIV: Authority to Contract**

The signatories hereto represent that they are authorized to sign on behalf of the respective parties they represent and are competent to do so, and each of the parties hereto hereby irrevocably waives any and all rights to challenge signatures on these bases.

#### **ARTICLE XV: General Provisions**

A. All reports, documents or other written material ("written products" herein) developed by CONTRACTOR in the performance of this Agreement shall be and remain the property of AGENCY without restriction or limitation upon its use or dissemination by AGENCY. CONTRACTOR may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by CONTRACTOR.

B. In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, medical condition or any other unlawful basis.

C. The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph at the head of which it appears, the section or paragraph hereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

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

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





**FAITHFUL PERFORMANCE BOND  
CITY YARD UST REMOVAL, CIP No. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

KNOW ALL PERSONS BY THESE PRESENTS that Contractor's Business Name, hereinafter referred to as "CONTRACTOR" as PRINCIPAL, and \_\_\_\_\_ a corporation duly organized and doing business under and duly licensed for the purpose of making, guarantying, and performing all the covenants and obligations of the Contract which CONTRACTOR is by this reference inc give this Bond in connection with the execution of the \_\_\_\_\_ NOW, THEREFORE, if CONTRACTOR and perform all the covenants and obligations of the Contract at the times and in the manner specified herein including quality requirements, then this obligation shall be null and void and of no force and effect;

*Performance Bond/  
Surety in  
Process*

THE CONDITIONS OF THIS OBLIGATION have been awarded and is about to enter into a Contract with \_\_\_\_\_ to the contract documents for the project entitled: \_\_\_\_\_ CONTRACT which Contract is by this reference inc give this Bond in connection with the execution of the \_\_\_\_\_ NOW, THEREFORE, if CONTRACTOR and perform all the covenants and obligations of the Contract at the times and in the manner specified herein including quality requirements, then this obligation shall be null and void and of no force and effect;

PROVIDED, that any alterations in the work to be done, or in the material to be furnished, which may be made pursuant to the terms of the Contract, shall not in any way release CONTRACTOR or the Surety thereunder, nor shall any extensions of time granted under the provisions of the Contract release either CONTRACTOR or said Surety, and notice of such alterations or extensions of the Contract is hereby waived by said Surety.

In the event suit is brought upon this Bond by AGENCY and judgment is recovered, said Surety shall pay all costs incurred by AGENCY in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Contractor*	Ms. Cathryn Houghton, Executor of the Estates of David and Dorothy Houghton A+ Environmental Solutions 6898 Soquel Ave. Santa Cruz, CA 95062 831-476-9200	SURETY*..... ..... ..... ..... .....
-------------	---	--

\*Provide CONTRACTOR and SURETY name, address and telephone number and the name, title, address and telephone number for their respective authorized representatives. Power of Attorney must be attached.

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 2012

NOTARY PUBLIC ..... (SEAL)

**(EXECUTE IN DUPLICATE)**



NON-COLLUSION AFFIDAVIT

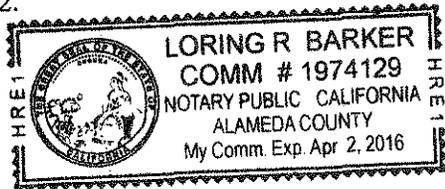
State of California )  
 ) ss.  
County of Los Angeles)

Cathryn M Houghton being first duly sworn, deposes and says that he or she is Executor (title) of: A+ Environmental Solutions (contractor's business name), the party making the foregoing bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Cathryn M Houghton  
Ms. Cathryn Houghton, Executor of the Estates of David and Dorothy Houghton

A+ Environmental Solutions, LLC  
6898 Soquel Ave.  
Santa Cruz, CA 95062  
831-476-9200

Place of Residence  
Subscribed and sworn to before me this 12 day of May, 2012.  
Notary Public in and for the County  
of  
State of California.  
My Commission Expires April 4, 2012:  
2012  
LB



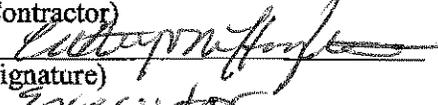
Loring R Barker

# WORKERS' COMPENSATION INSURANCE CERTIFICATE

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

DATE: 5-12-2012

A+ Environmental Solutions, LLC  
(Contractor)  
By:   
(Signature)  
Executive  
(Title)

Attest:  
By:   
(Signature)  
  
(Title)

Note: See Section 7 Responsibility of the Contractor, Paragraph 7-3 of the Standard Specifications for insurance carrier rating requirements.

**ENDORSEMENTS TO INSURANCE POLICY**

Name of Insurance Company: Starr Indemnity & Liability Company  
Policy Number: SISIEL70079512  
Effective Date: 4-2-2012

The following endorsements are hereby incorporated by reference into the attached Certificate of Insurance as though fully set forth thereon:

1. The naming of an additional insured as herein provided shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured, and
2. The additional insured named herein shall not be held liable for any premium or expense of any nature on this policy or any extensions thereof, and
3. The additional insured named herein shall not by reason of being so named be considered a member of any mutual insurance company for any purpose whatsoever, and
4. The provisions of the policy will not be changed, suspended, canceled or otherwise terminated as to the interest of the additional insured named herein without first giving such additional insured twenty (20) days' written notice.
5. Any other insurance held by the additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance, which is referred to by this certificate.
6. The company provided insurance for this certificate is a company licensed to do business in the State of California with a Best's rating of A+ VIII or greater.

It is agreed that the City of Los Alamitos, its officers and employees, are included as Additional Insureds under the contracts of insurance for which the Certificate of Insurance is given.

Sara Pickens, Lawson-Hawkes Insurance  
Association  
Authorized Insurance Agent

Date: May 11 - 2012

**STATEMENT REGARDING INSURANCE COVERAGE  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

The undersigned representative of Bidder hereby certifies that he/she has reviewed the insurance coverage requirements specified in 7-3 **LIABILITY INSURANCE** of Section E, Standard Specifications. Should Bidder be awarded the contract for the work, the undersigned further certifies that Bidder can meet all of these specification requirements for insurance including insurance coverage of his/her subcontractors.

NAME OF BIDDER: At Environmental Solutions, LLC

MAILING ADDRESS: 6897 Sequel Ave  
Santa Cruz, CA 95062

AUTHORIZED SIGNATURE: 

TITLE: Executor, Estates of David and Dorothy Houghton

DATE: 5-11-2012

**STATEMENT REGARDING CONTRACTOR'S LICENSING LAWS  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA  
[Business & Professions Code § 7028.15]  
[Public Contract Code § 20103.5]**

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below:

*Business & Professions Code § 7028.15:*

- a) **It is a misdemeanor for any person to submit a bid to a public agency to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:**
- (1)The person is particularly exempted from this chapter.
  - (2)The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20104 [now § 20103.5] of the Public Contract Code.
- b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.
- In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.
- c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his/her individual licenser.
- d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.
- e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. **Any contract awarded to, or any purchase order issued to, as contractor who is not licensed pursuant to this chapter is void.**

- f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.
- g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

*Public Contract Code § 20103.5:*

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of pre-qualification questionnaire and financial statement. **Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.**

Contractor's License Number: 843915  
License Expiration Date: 7/7/2012  
Authorized Signature: *Cathy M. Houghton*  
Date: 5-11-2012

**SECTION E  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

**E-STANDARD SPECIFICATION**

**STANDARD SPECIFICATIONS  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

**0-1 STANDARD SPECIFICATIONS**

Except as hereinafter amended, the provisions of the 2006 Edition of the "Green Book," Standard Specifications for Public Works Construction ("SSPWC"), with the latest Supplements, prepared and promulgated by the Southern California Chapters of the American Public Works Association and the Associated General Contractors of America, and these modifications thereto are adopted as the "Standard Specifications" for the Agency. These Standard Specifications will be numbered as Sections 0 through 600 per the SSPWC.

**0-2 NUMBERING OF SECTIONS**

The numbering of sections and subsections in these amendments and modifications are compatible with the numbering of sections in the SSPWC. The Special Provisions stated below will be numbered as Sections 700 through 799. Subsections of architectural work may be numbered according to the Construction Specifications Institute ("CSI") format.

**0-3 AMENDMENTS AND MODIFICATIONS**

The following sections of the SSPWC are amended as provided herein. In the event of any inconsistencies between the amendments outlined herein and the SSPWC, these amendments shall control.

**1-2 DEFINITIONS**

Add the following:

**Agent**—Shall include persons and companies, other than the Contractor, retained by the City to perform design and construction services in relation to the Work.

**Acceptance**—The Agency's formal written acceptance of a project that has been completed in all respects in accordance with the plans and specifications and any modifications thereof.

**City**—The City of Los Alamitos, California, as the Agency and Owner.

**City Council**—City Council of the City of Los Alamitos, California.

**Construction Manager**—Persons and/or company retained by the City to perform construction management services.

**Design Engineer**—Persons and/or company retained by the City to perform engineering design services.

**Due Notice**—A written notification, provided in due time, of a proposed action, where the contract requires such notification within a specified time (usually 48 hours or two working days) prior to the commencement of the contemplated action.

**Engineer**—The City Engineer of the City of Los Alamitos, or his/her authorized representative.

Geotechnical Engineer—Person licensed to practice Soils Engineering or Geotechnical Engineering pursuant to the laws of the State of California and retained by the Agency during construction.

Prompt—The briefest interval of time required for a considered reply, including time required for approval by a governing body.

Standard Plans—“Standard Plans for Public Works Construction” - Latest edition of the Southern California Chapter of the American Public Works Association.

State Standard Specifications (“SSS”)—Standard Specifications prepared by the State of California, Business and Transportation Agency, Department of Transportation.

State Standard Plans (“SSP”)—Standard Plans prepared by State of California, Business and Transportation Agency, Department of Transportation.

Working Days—Any days, except: (1) Saturdays, Sundays, legal holidays on which Los Alamitos City Hall is closed for business; (2) days when work is suspended by the Engineer for reasons unrelated to the performance of the contractor, and provided in Subsections 6-3 and 6-3.1; and (3) days determined to be non-working in accordance with Section 6-7 “Time of Completion”.

### **1-3.2 COMMON USAGE**

Add the following:

ARAM Asphalt Rubber Aggregate Membrane

ARHM Asphalt Rubber Hot Mix

### **1-3.3 INSTITUTIONS**

Add the following:

ACI American Concrete Institute

AGCA Associated General Contractors of America

APWA American Public Works Association

ASME American Society of Mechanical Engineers

CRSI Concrete Reinforcing Steel Institute

CSI Construction Specifications Institute

IEEE Institute of Electric and Electronic Engineers

NFPA National Fire Protection Association

SSS State of California Standard Specifications, latest edition, Department of Transportation

SSP State of California Standard Plans, latest edition, Department of Transportation.

SSPWC Standard Specifications for Public Works Construction, as specified in Subsection 0-1

---

APPROVED FOR USE IN 2011

97240.3

**2-1 AWARD AND EXECUTION OF THE CONTRACT**

Add the following:

The City reserves the right to reject any or all proposals.

The Contract will be awarded, if at all, to the lowest responsible and responsive Bidder determined as provided on the Proposal Form, whose proposal complies with all the requirements prescribed. Such award, if made, will be made within the number of days stated in the proposal form. Refusal or failure to deliver the executed contract, bonds, or insurance in the form provided in the Contract and approved by the Agency's attorney within the time provided herein shall be cause, at the Agency's option, for the annulment of the award and forfeiture of the bid security. In such event, the Agency may successively award the Contract to the next lowest responsible and responsive Bidder until a properly executed Contract, bonds, and insurance is obtained, or it may at any time reject all remaining bids and proceed as provided by law. The refusal or failure of a successive lowest responsible and responsive Bidder to execute the Contract may, at the Agency's option, result in an annulment of the award to that Bidder and the forfeiture of that Bidder's bid security. The periods of time specified above within which the award of the Contract may be made shall be subject to extension for such further period as may be agreed upon in writing between the Agency and the concerned Bidder.

The Agency reserves the right to waive any irregularities.

Within ten (10) calendar days after the date of the Notice of Award, the Contractor shall execute and return the following contract documents to the Agency:

- Contract Agreement (in duplicate)
- Faithful Performance Bond (in duplicate)
- Maintenance Bond (in duplicate)
- Payment Bond (in duplicate)
- Public Liability and Property Damage Insurance Certificate (two original)
- Additionally Insured Endorsement
- Workers' Compensation Insurance Certificate (two original)

A corporation to which an award is made may be required, before the Contract agreement is executed by the Agency, to furnish evidence of its corporate existence, of its right to enter into contracts in the State of California, and that the officers signing the contract and bonds for the corporation have the authority to do so.

**2-3 SUBCONTRACTS**

**2-3.1 GENERAL**

Delete the third paragraph and replace with the following:

Subcontracting of more than one-half of one percent of the work for which no Subcontractor was designated in the original Bid will be allowed only in cases of public emergency or necessity and only after the Engineer makes a written finding of circumstances constituting public emergency or necessity.

Delete the fourth paragraph and replace with the following:

The Contractor must obtain written consent of the City Council to substitute a Subcontractor designated in the original Bid, to permit any subcontract to be assigned or transferred, or to otherwise allow a subcontract to be performed by anyone other than the originally designated Subcontractor.

Delete the fifth paragraph and replace with the following:

A violation of any of the above provisions will be considered a violation of the Contract, and the City may cancel the Contract and collect appropriate damages or assess the Contractor a penalty of not more than ten (10) percent of the subcontract involved.

Add the following:

If subcontracted work is not being performed in a satisfactory manner, the City will notify the Contractor of the need to take corrective action and the Engineer may report the facts to the City Council. Upon order by City Council and the Contractor's receipt of written instructions from the Engineer, the Subcontractor shall immediately be removed from the Work and may not again be employed on the Work.

### **2-3.2 STATUS OF SUBCONTRACTORS**

Delete the paragraph and replace with the following:

All persons engaged in the Work, including Subcontractors and their employees, will be considered employees of the Contractor. The Contractor will be held responsible for their work. The Agency will deal directly and solely with the Contractor and make all payments to the Contractor.

### **2-4 CONTRACT BONDS**

Add the following:

The PAYMENT BOND shall remain in force until thirty-five (35) days after the date of recordation of the Notice of Completion. The FAITHFUL PERFORMANCE BOND shall remain in force until the date of recordation of the Notice of Completion. The MAINTENANCE BOND shall remain in force until one (1) year after the date of recordation of the Notice of Completion.

All bonds must be accompanied by a Power of Attorney.

### **2-5 PLANS AND SPECIFICATIONS**

#### **2-5.1 GENERAL**

Add the following:

All final locations determined in the field, and any deviations from the Plans and Specification, shall be marked in red on the documents to show the as-built conditions. Contractor shall maintain a complete and accurate record of all changes of construction from that shown in these plans and specifications for the purpose of providing a basis for construction record drawings. No changes shall be made without prior written approval of the Engineer. Upon completion of the Project, Contractor shall deliver this record of all construction changes to the Engineer along with a letter which declares that other than these

noted changes "the Project was constructed in conformance with the Contract Documents". Final payment will not be made until this requirement is met.

As the figured dimensions shown on the drawings and in the specifications of the Contract may not in every case agree with scaled dimensions, the figured dimensions shall be followed in preference to the scaled dimensions, and drawings to a large scale shall be followed in preference to the drawings to a small scale. Should it appear that the work to be performed, or any related matter, are not sufficiently detailed or explained in the Contract documents, the Contractor shall apply to the Engineer for such further explanations as necessary, and shall conform to such further explanations provided by the Engineer as part of the Contract to the extent that it is consistent with the terms of the Contract.

Caution: The engineer preparing these plans will not be responsible or liable for unauthorized changes to or uses of these plans. All changes to the plans must be approved in writing by the Engineer.

## **2-6 WORK TO BE DONE**

Add the following:

Any plan or method of work suggested by the Agency or the Engineer to the Contractor but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor; and the Agency and the Engineer shall assume no responsibility therefore and in no way be held liable for any defects in the work which may result from or be caused by use of such plan or method of work.

## **2-8 RIGHT-OF-WAY**

Add the following:

When the Contractor arranges for additional work areas and facilities temporarily required by him/her, he/she shall provide the Agency with proof that the additional work areas and/or facilities have been left in a condition satisfactory to the owner(s) of said work areas and/or facilities prior to acceptance of the work.

## **2-9 SURVEY**

Delete Section 2-9.3. Add the following:

The Contractor shall be responsible for all survey and layout of work.

The line and grades for construction will be parallel to and offset from the position of the work. From the established lines and grades, the Contractor shall extend the necessary lines and grades for construction of the work and shall be responsible for the correctness of same.

## **2-11 INSPECTION**

Add the following:

The Agency shall inspect for compliance with requirements for 8-hour days and 40-hour weeks on normal working days. The Contractor shall reimburse the Agency, at rates established by the Agency, for any additional inspection, including inspection on legal holidays.

#### **4-1 MATERIALS AND WORKMANSHIP**

##### **4-1.1 GENERAL**

Add the following:

The Contractor and all subcontractors, suppliers, and vendors, shall guarantee that the entire Work will meet all requirements of this Contract as to the quality of materials, equipment, and workmanship. The Contractor, at no cost to the Agency, shall make any repairs or replacements made necessary by defects in materials, equipment, or workmanship that become evident within one year after the date of recordation of the Notice of Completion. Within this one year period, the Contractor shall also restore to full compliance with the requirements of this Contract any portion of the Work which is found not to meet those requirements. The Contractor shall defend, indemnify, and hold the Agency, its officers, agents, and employees harmless from claims of any kind due to injuries or damages arising, directly or indirectly, from said defects or noncompliance.

The Contractor shall make all repairs, replacements, and restorations within thirty-five (35) days after the date of the Engineers' written notice.

If, in the opinion of the Engineer, the defective work is not of sufficient magnitude or importance to make the work dangerous or undesirable, or if, in the opinion of the Engineer, the removal of such work is impractical or will create conditions which are dangerous or undesirable, the Agency shall have the right and authority to retain such work instead of requiring it to be removed and reconstructed, but will make such deductions thereof in the payments due or to become due to the Contractor as the Agency may deem just and reasonable.

##### **4-1.4 TEST OF MATERIALS**

Delete the third, fourth, and fifth sentences of the first paragraph and replace with the following:

Except as elsewhere specified, the Agency will bear the cost of testing material and/or workmanship which meet or exceed the requirements indicated in the Standard Specifications and the Special Provisions. The Contractor shall bear the cost of all other tests, including the retesting of material or workmanship that fails to pass the first test.

##### **4-1.6 TRADE NAMES OR EQUALS**

Delete the fourth sentence of the second paragraph and replace with the following:

Approval of equipment and materials offered as equivalents to those specified must be obtained prior to the opening of bids as set forth in the Instructions to Bidders.

Add the following:

Along with information supplied by the Contractor regarding equivalency of the proposed item, the Contractor shall clearly identify all deviations from the specified item. Deviations discovered by the Engineer after acceptance of an "or equal" item which were not identified by the Contractor with his/her submittal shall be cause for rejection of the "or equal" item. Contractor shall be due no additional

compensation in time or money for acceptance or rejection of a proposed "or equal" item and subsequent replacement with the item specified. Contractor shall pay cost to Agency for items requiring more than two submittals and analysis of any shop drawing which requires more than a general review of an "or equal" item.

## **5-1 LOCATION**

Add the following Subsections:

### **5-1.1 MANDATORY NOTIFICATION PRIOR TO EXCAVATION**

The Contractor's attention is direct to Section 4215.5 through 4217 of the Government Code of the State of California. This requires that two (2) working days prior to commencing any excavation "Underground Service Alert of Southern California" (USA) shall be notified by phone, toll free 1-800-227-2600, for the assignment of an Inquiry Identification Number.

Construction Contractor shall contact all utility companies (e.g. gas company, electric company, telephone company, cable company, water company, refuse collectors, and Los Angeles County Department of Public Works) at least five (5) working days prior to commencing work and shall verify the location of any known utilities and determine whether or not a representative of each company will be present during excavation:

Additionally, the Contractor shall also notify local entities of his/her schedule fourteen (14) days prior to commencing work, including, local law enforcement agencies, the Post Office, Public Schools, and Bus Companies.

**No excavation shall commence unless the Contractor has obtained the USA Inquiry Identification Number.**

### **5-1.2 ACCURACY OF UTILITIES INFORMATION**

The locations of known existing major utilities, whether above ground or underground, are indicated on the plans. Information and data reflected in the Contract Documents with respect to underground and above ground utilities at or contiguous to the site is based upon information and data furnished to the City and the Engineer by the owners of such utilities, and the City does not assume responsibility for the accuracy or completeness thereof. The Contractor shall take all possible precautions for the protection of unforeseen utility lines to provide for uninterrupted service and to provide such special protection as may be necessary.

The Contractor shall be responsible for determining the location and depth of all underground facilities, including service connections, which may affect or be affected by his/her operations and he/she shall include the cost to pothole all utilities within the limits of work in his/her bid. If an existing utility line, which has been marked by Underground Service Alert or is shown on the plans, is damaged by the Contractor, the Contractor shall repair the line and bear the cost thereof.

Contractor shall be aware that electrical conduits between street and traffic lights may exist beneath pavement and/or sidewalk in areas where such lights are in place and that said conduits are not shown on these plans.

In the event that the Contractor damages any existing utility lines that are not shown, shown incorrectly or the locations of which are not made known to the Contractor prior to excavation, a telephone call and written report shall be made immediately to the Utility owner, the Engineer, and to the City. If directed

by the City, the Contractor shall make repairs under the provisions for changes and extra work contained in **SECTION 3 - CHANGES IN WORK** of the SSPWC Standard Specification.

## **5-2 PROTECTION**

Delete the following text from the last sentence of the fourth paragraph of Section 5-2: "if located as noted in 5-1".

## **5-4 RELOCATION**

Delete the second sentence of the fourth paragraph and replace with the following:

When not otherwise required by the plans and specifications and when directed by the Engineer, the Contractor shall arrange for the relocation of service connections as necessary between the meter and property line, or between the meter and limits of construction.

## **5-5 DELAYS**

Delete the last paragraph of this section.

## **6-1 CONSTRUCTION, SCHEDULE AND COMMENCEMENT OF WORK**

Add the following:

Prior to issuing the Notice to Proceed, the Engineer will schedule and conduct a pre-construction meeting with the Contractor to review the proposed construction schedule and delivery dates, arrange utility coordination, discuss construction methods, and clarify inspection procedures.

## **6-2 PROSECUTION OF WORK**

Delete the last sentence of first paragraph and replace it with the following:

Should the Contractor fail to take the necessary steps to fully accomplish said purposes, after orders of the Engineer to do so, the Agency may suspend the work in whole or in part, until the Contractor takes said steps at no cost to the Agency.

Add the following:

The Contractor shall submit monthly progress reports to the Engineer by the tenth day of each month. The report shall include an updated construction schedule. Any deviations from the original schedule shall be explained. Progress payments will be withheld pending receipt of any outstanding reports.

## **6-6 DELAYS AND EXTENSION OF TIME**

### **6-6.1 GENERAL**

Add the following Subsections:

#### **6-6.1.1 Notice of Delays**

Whenever the Contractor foresees any delay in the prosecution of the work, and in any event immediately upon the occurrence of any delay which the Contractor regards as unavoidable, he/she shall notify the Engineer in writing of the probability of the occurrence of such delay and its cause so that the Engineer

may take immediate steps to prevent, if possible, the occurrence or continuance of the delay, or, if prevention is not possible, may determine whether the delay is to be considered avoidable or unavoidable, how long it continues, and to what extent it will delay the prosecution and completion of the work. It will be concluded that any and all delays which have occurred in the prosecution and completion of the work have been avoidable delays, except such delays as shall have been called to the attention of the Engineer at the time of their occurrence and found by him/her to have been unavoidable. The Contractor shall make no claims for any delay not called to the attention of the Engineer at the time of its occurrence as an unavoidable delay.

#### **6-6.1.2 Avoidable Delays**

Avoidable delays in the prosecution or completion of the work shall include all delays which in the opinion of the Engineer would have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor of his/her subcontractors. The following shall be considered avoidable delays within the meaning of the contract: 1) Delays in the prosecution of parts of the work which may in themselves be unavoidable but do not necessarily prevent or delay the prosecution of other parts of the work or the completion of the whole work within the time herein specified; 2) Reasonable loss of time resulting from the necessity of submitting samples of materials and drawings to the Engineer for approval and from performing tests of materials, measurements, and inspections; 3) Reasonable interference of other contractors employed by the Agency and/or other contractors working in the area which do not necessarily prevent the completion of the whole work within the time agreed upon; 4) Delays resulting from inaccurate or incomplete shop drawing submittals; and 5) Interference of other contractors performing concurrent work.

#### **6-6.1.3 Extension of Time**

In case the work is not completed in the time specified, including such extensions of time as may have been granted for unavoidable delays, the Contractor will be assessed damages for delay in accordance with Paragraph 6-9.1. The Agency, however, shall have the right to grant an extension of time for avoidable delay if it is deemed in his/her best interest to do so. During such extension of time, the Contractor will be charged for engineering and inspection services and other costs as provided in Paragraph 6-6.2.1 but will not be assessed damages pursuant to Paragraph 6-9.

### **6-6.2 EXTENSIONS OF TIME**

Add the following Subsection:

#### **6-6.2.1 Compensation to Agency for Extension of Time**

Compensation for extension of time for avoidable delay granted pursuant to Paragraph 6-6.1.3 shall be the actual cost to the Agency for engineering, inspection, general supervision, and overhead expenses which are directly chargeable to the work and which accrue during the period of such extension, except that the cost of final inspection and preparation of the final estimate shall not be included.

### **6-6.4 WRITTEN NOTICE AND REPORT**

Delete the title and text of Section 6-6.4 and replace it with the following:

Requests for an extension of time must be delivered to the Agency within ten (10) consecutive calendar days following the date of the occurrence that caused the delay. The request must be submitted in writing and must state the cause of the delay, the date of the occurrence causing the delay, and the amount of additional time requested. This shall be included as part of a revised construction schedule required in

Section 6-1. Requests for extensions of time shall be supported by all evidence reasonably available or known to the Contractor, which would support the extension of time requested. Requests for extensions of time, which are not received within the time specified above, shall result in the forfeiture of the Contractor's right to receive any extension of time requested.

If the Contractor is requesting an extension of time because of weather, he/she shall supply daily written reports to the Agency's representative describing such weather, and the work that could not be performed that day because of such weather or conditions resulting therefrom and that he/she otherwise would have performed.

## **6-7 TIME OF COMPLETION**

### **6-7.2 WORKING DAY**

Add the following:

The Contractor's activities shall be confined to the hours between 7:30 a.m. and 4:00 p.m. Monday through Friday. In addition, the Contractor shall not perform any Work on Saturday, Sunday, or on Agency-designated holidays. Agency-designated holidays are listed in **TABLE 1 – AGENCY-DESIGNATED HOLIDAYS** below. Deviation from these hours will be permitted upon approval of the Engineer, except in emergencies involving immediate hazard to persons or property.

Deviations from these hours will not be permitted without the prior consent of the Engineer, except in emergencies involving immediate hazard to persons or property. In the event of either a requested or emergency deviation, inspection service fees will be charged against the Contractor. Service fees will be calculated at overtime rates including benefits, overhead, and travel time; and will be deducted from the amounts due the Contractor.

Failure of the Contractor to adhere to working day requirements will result in damages being sustained by the City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each OCCURRENCE of a working day or hours violation, as provided herein, the Contractor shall pay to the Agency, or have withheld from monies due to it, the sum of \$1,000.00.

#### **TABLE 1 – AGENCY-DESIGNATED HOLIDAYS**

New Year's Day  
Martin Luther King, Jr. Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve  
Christmas Day

EXECUTION OF THE CONTRACT SHALL CONSTITUTE AGREEMENT BY THE AGENCY AND CONTRACTOR THAT \$1,000 PER VIOLATION IS THE MINIMUM VALUE OF THE COST AND ACTUAL DAMAGED CAUSED BY FAILURE OF THE CONTRACTOR TO LIMIT PERFORMANCE OF THE WORK BETWEEN THE ALLOTTED TIMES, THAT SUCH SUM SHALL NOT BE CONSTRUED AS A PENALTY, AND THAT SUCH SUM MAY BE DEDUCTED FROM PAYMENTS DUE THE CONTRACTOR IF SUCH DELAY OCCURS.

## **6-8 COMPLETION AND ACCEPTANCE**

The following subsection is added to Subsection 6-8 of the SSPWC.

### **6-8.1 General Guaranty**

The Contractor shall remedy any defects in the Work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the Work unless a longer period is specified. The Agency will give notice of observed defects with reasonable promptness.

## **6-9 LIQUIDATED DAMAGES**

Delete the title and text of Section 6-9 and replace with the following:

### **6-9 FORFEITURE DUE TO DELAY**

The Contractor shall complete all or any designated portion of the Work called for under the Contract within the time set forth in Part C (Proposal) of these Specifications.

In accordance with Government Code 53069.85, and all other applicable law, the Contractor agrees to forfeit and pay the Agency the amount of Five Hundred Dollars (\$500.00) per day for each and every day of unauthorized delay beyond the completion date, which shall be deducted from any monies due the Contractor. This payment shall be considered liquidated damages. Contractor agrees that such liquidated damages are reasonable under the circumstances existing at the time of execution of the contract, that such liquidated damages are to compensate Agency for losses that are difficult to measure and that such damages are not a penalty.

Failure of the Contractor to perform any covenant or condition contained in the Contract Documents within the time period specified shall constitute a material breach of this Contract entitling the Agency to terminate the Contract unless the Contractor applies for, and receives, an extension of time in accordance with the procedures set forth in Section 5-5.

Failure of the Agency to insist upon the performance of any covenant or conditions within the time period specified in the Contract Documents shall not constitute a waiver of the Contractor's duty to complete performance within the designated periods unless the Agency has executed a waiver in writing.

The Agency's agreement to waive a specific time provision or to extend the time for performance shall not constitute a waiver of any other time provision contained in the Contract Documents.

Failure of the Contractor to complete performance promptly within the additional time authorized in a waiver or extension of time agreement shall constitute a material breach of this Contract entitling the Agency to terminate this agreement.

The Contractor shall not be deemed in breach of this Contract and no forfeiture due to delay shall be made because of any delays in the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor provided the Contractor requests an extension of time in accordance with the procedures set forth in Section 5-5. Unforeseeable causes of delay beyond the control of the Contractor shall include acts of God, acts of a public enemy, acts of the government, acts of the Agency, or acts of another contractor in the performance of a contract with the Agency, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather, or delays of subcontractors due to such causes, or delays caused by failure of the owner of a utility to provide for removal or relocation of existing utility facilities. Delays caused by actions or neglect of Contractor or his/her agents, servants, employees, officers, subcontractors, directors, or of any party contracting to perform part of all of the Work or to supply any equipment or materials shall not be excusable delays. Excusable delays (those beyond the Contractor's control) shall not entitle the Contractor to any additional compensation. The sole recourse of the Contractor shall be to seek an extension of time.

## **6-11 GUARANTEE**

The Contractor shall warrant and guarantee the entire Work and all parts thereof, including that performed and constructed by subcontractors, and others employed directly or indirectly on the Work, against faulty or defective materials, equipment or workmanship for the maximum period provided by law. In addition thereto, for a period of one (1) year commencing on the date of acceptance of the Work, the Contractor shall, upon the receipt of notice in writing from the Agency, promptly make all repairs arising out of defective materials, workmanship or equipment and bear the cost thereof. The Agency is hereby authorized to make such repairs and the Contractor and Surety shall bear the cost thereof if, ten (10) days after the giving of such notice to the Contractor, the Contractor has failed to make or undertake with due diligence the repairs; provided, however, that, in the case of an emergency where, in the opinion of the Agency, delay could cause serious loss or damage, repairs may be made without notice being sent to the Contractor or Surety, and all expense in connection therewith shall be charged to the Contractor and Surety.

For the purpose of this article "Acceptance of the Work" shall mean the acceptance of the Work by the Agency in accordance with Subsection 6-8 but not for the purpose of extinguishing any covenant or agreement or agreement on the part of the Contractor to be performed or fulfilled under this Contract, which has not in fact been performed or fulfilled at the time of such acceptance all of such covenants and agreements, shall continue to be binding on the Contractor until they have been fulfilled.

The effective date of Acceptance of the Work and commencement of the Guarantee shall be the date of acceptance of the Notice of Completion by the City Council.

## **6-12 DISPUTES AND CLAIMS**

### **6-12.1 GENERAL**

Any and all decisions made on appeal pursuant to this Subsection 6-12 shall be in writing. Any "decision" purportedly made pursuant to this Subsection 6-12 that is not in writing shall not be binding upon the Agency and should not be relied upon by the Contractor.

Nothing in this subsection shall be considered as relieving the Contractor from his/her duty to file the notice required under Subsection 6-13 or other duties required by the Contract Documents.

### **6-12.2 ADMINISTRATIVE REVIEW**

Request for review made to the Construction Inspector or Project Engineer may be either oral or written. Request for review made to the City Engineer shall be made in writing with supporting evidence attached.

---

APPROVED FOR USE IN 2011

97240.3

The Contractor shall submit each request for review within twenty-one (21) calendar days of receipt of the decision that he/she is requesting.

Prior to demand for arbitration, the Contractor shall exhaust his/her administrative remedies by attempting to resolve his/her dispute or claim with Agency's staff in the following sequence:

1. Project Engineer
2. City Engineer

Should the Project Engineer fail to address the Contractor's request for review of a disputed decision within fourteen (14) calendar days after receiving such request, the Contractor may proceed directly to the City Engineer. At the option of the Agency, the person to whom the request for review is directed may elect to take such request to a higher level and the Contractor's request shall be deemed to be properly submitted to such higher level.

The City Engineer shall address disputes or claims within twenty eight (28) calendar days after receiving such request and all necessary supporting data. The City Engineer's decision on the dispute or claim shall be the Agency's final decision.

### **6-12.3 ARBITRATION**

Claims and disputes arising under or related to the performance of the contract, except for claims that have been released by execution of the "Release on Contract" as provided in Subsection 9-4, shall be resolved in arbitration unless the Agency and the Contractor agree in writing, after the claim or dispute has arisen, to waive arbitration and to have the claim or dispute litigated in court of competent jurisdiction. Arbitration shall be conducted, to the extent feasible, pursuant to Chapter 3 (Sections 301-393, inclusive) of Division 2 of Title 1 of the California Code of Regulations except that references therein to the "State Contract Act" shall be construed to mean "applicable law" and "Public Agency", or "Department" shall be construed to mean "Agency" as defined in Subsection 1.2. The arbitration decision shall be decided under and in accordance with California law, supported by substantial evidence, and in writing, contain the basis for the decision, findings of fact, and conclusions of law.

Arbitration shall be initiated by a Demand for Arbitration. The Contractor shall request a Demand for Arbitration not later than one hundred eighty (180) calendar days after the date of the final written decision of the Agency on the claim or dispute.

All contracts valued at more than \$15,000 between the Contractor and his/her Subcontractors and Suppliers shall include a provision that the Subcontractors and Suppliers shall be bound to the Contractor to the same extent that the Contractor is bound to the Agency by all terms and provisions of the Contract, including these arbitration provisions.

### **6-13 NOTICE OF POTENTIAL CLAIM**

The Contractor shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by the Engineer, or the happening of any event, thing or occurrence, unless the Contractor shall have given the Engineer due notice in writing, of the potential claim as hereinafter specified, provided, however, that compliance with this Subsection 6-12 shall not be a prerequisite as to any claim that is based on differences in measurements or errors of computation as to the Contract quantities.

Additionally, this Subsection 6-13 shall not supersede the specific notice and protest requirements of Subsection 3-4 "Changed Conditions" and Subsection 6-7.3 "Contract Time Accounting" respectively.

A written notice of potential claim shall set forth the reasons the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible, the amount of the potential claim. A notice as above required must have been given to the Engineer prior to the time that the Contractor shall have performed the Work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the Engineer, or in all other cases within fifteen (15) days after the happening of the event, thing or occurrence giving rise to the potential claim.

It is the intention of this Subsection 6-13 that differences between the parties arising under and by the virtue of the Contract be brought to the attention of the Engineer at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The Contractor hereby agrees that he/she shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was filed.

## **7-1 CONTRACTORS EQUIPMENT AND FACILITIES**

Add the following:

A noise level limit of 85 dba at a distance of fifty (50) feet shall apply to all construction equipment on or related to the job, whether owned by the Contractor or not. The use of excessively loud warning signals shall be avoided except in those cases where required for the protection of personnel.

The Contractor shall arrange and maintain a secure storage site for all equipment and materials. All equipment and unused materials shall be returned to this site at the end of each work day.

## **7-2 LABOR**

### **7-2.2 LAWS**

Delete the last sentence of the second paragraph and replace with the following:

Failure to file any report due under said orders will result in suspension of periodic progress payments.

Add the following:

The Contractor shall ensure unlimited access to the job site for all Equal Opportunity Compliance officers.

Every Contractor and Subcontractor shall keep an accurate record showing the name, occupation, and the actual per diem wages paid to each worker employed by him/her in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the body awarding the Contract and to the Division of Labor Law Enforcement.

Add the following Subsection:

#### **7-2.2.1 Overtime and Shift Work**

The Contractor may establish overtime and shift work as a regular procedure only with the written permission of the Engineer. Such permission may be revoked at any time. No work other than overtime and shift work established as a regular procedure shall be done between the hours of 4:00 p.m. and 7:30 a.m., nor on Saturdays, Sundays or legal holidays, except such work as is necessary for the proper care and protection of the work already performed or except in case of an emergency.

All costs for overtime inspection, except those occurring as a result of overtime and shift work established as a regular procedure, shall be paid by the Contractor. Overtime inspection shall include inspection required during holidays observed by the AGC and Trade Unions, Saturdays, Sundays, and any weekday between the hours of 4:00 p.m. and 7:30 a.m.. Such costs will include but will not necessarily be limited to engineering, inspection, general supervision and other overhead expenses that are directly chargeable to the overtime work. The Agency shall deduct all such charges from payments due the Contractor.

### **7-3 LIABILITY INSURANCE**

Section 7-3 is replaced in its entirety as follows:

7-3.1 **GENERAL.** CONTRACTOR and AGENCY agree that Agency, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys fees, litigation costs, defense costs, court costs or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the Agency. CONTRACTOR acknowledges that AGENCY would not have entered into this Agreement in the absence of the commitment of CONTRACTOR to indemnify and protect AGENCY as set forth here.

7-3.2 To the full extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless AGENCY, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged, or threatened, actual attorneys fees incurred by AGENCY, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of, arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this Agreement. All obligations under this provision are to be paid by CONTRACTOR as they are incurred by the AGENCY.

7-3.3 Without affecting the rights of AGENCY under any provision of this agreement or this section, CONTRACTOR shall not be required to indemnify and hold harmless AGENCY as set forth above for liability attributable to the sole fault of AGENCY, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction.

This exception will apply only in instances where the AGENCY is shown to have been solely at fault and not in instances where CONTRACTOR is solely or partially at fault or in instances where AGENCY's fault accounts for only a percentage of the liability involved. In those instances, the obligation of CONTRACTOR will be all-inclusive and AGENCY will be indemnified for all liability incurred, even though a percentage of the liability is attributable to the conduct of the AGENCY.

7-3.4 CONTRACTOR acknowledges that its obligation pursuant to this section extends to liability attributable to AGENCY, if that liability is less than the sole fault of AGENCY. CONTRACTOR has no obligation under this Agreement for liability proven in a court of competent jurisdiction or by written agreement between the parties to be the sole fault of AGENCY.

7-3.5 The obligations of CONTRACTOR under this or any other provision of this Agreement will not be limited by the provisions of any workers compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to AGENCY, its employees, agents and officials.

7-3.6 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those as set forth here in this section from each and every subcontractor, sub-tier contractor or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance or subject

matter of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required here, CONTRACTOR agrees to be fully responsible according to the terms of this section.

7-3.7 Failure of AGENCY to monitor compliance with these requirements imposes no additional obligations on AGENCY and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend AGENCY as set forth herein is binding on the successors, assigns or heirs of CONTRACTOR and shall survive the termination of this Agreement or this section.

7-3.8 CONTRACTOR agrees to provide insurance in accordance with the requirements as set forth here. If CONTRACTOR uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. The following coverages will be provided by CONTRACTOR and maintained on behalf of AGENCY and in accordance with the requirements set forth herein.

7-3.9 Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88. Total limits shall be not less than two million dollars (\$2,000,000.00) per occurrence for all coverages and two million dollars (\$2,000,000.00) general aggregate. AGENCY and its officers, agents and employees shall be named as additional insureds using ISO additional insureds endorsement form CG 20 10 11 85 (in no event will AGENCY accept an endorsement form with an edition date later than 1990). Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to AGENCY or any employee or agent of AGENCY. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum of \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion. Policies shall have concurrent starting and ending dates.

Each policy of insurance shall contain a clause prohibiting cancellation, modification or lapse without thirty (30) days prior written notice having been given to the City. All insurance policies shall be subject to approval by the City Attorney and certificates evidencing such policies shall be provided to the City concurrently with the filing of all required bonds.

7.3.10 Business Auto/Umbrella Liability Insurance. Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto). Limits shall be no less than two million dollars (\$2,000,000.00) per accident. Starting and ending dates shall be concurrent. If CONTRACTOR owns no autos, a non-owned auto endorsement to the General Liability policy drafted above is acceptable.

#### **7-4 WORKERS' COMPENSATION INSURANCE**

Section 7-4 shall be replaced in its entirety as follows:

7-4.1 Workers' Compensation/Employers' Liability shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employers' liability limits shall be no less than one million dollars per accident or disease. Employers' liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects the AGENCY, its officers, agents or employees.

7-4.2 CONTRACTOR and AGENCY further agree as follows:

---

APPROVED FOR USE IN 2011

97240.3

7-4.2.1 This Section supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

7-4.2.2 Nothing contained in this Section is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Section are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

7-4.2.3 All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available, or applicable. Nothing contained in this Agreement or any other agreement relating to the AGENCY or its operations limits the application of each insurance coverage.

7-4.2.4 Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all-inclusive, or to the exclusion of other coverage, or a waiver of any type.

7-4.2.5 For purposes of insurance coverage only, this Agreement shall be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

7-4.2.6 All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit CONTRACTOR, and CONTRACTOR's agents, officers or employees from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against AGENCY.

7-4.2.7 Unless otherwise approved by AGENCY, CONTRACTOR's insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of "A:VII." Self-insurance will not be considered to comply with these insurance specifications.

7-4.2.8 In the event any policy of insurance required by this Agreement does not comply with these requirements or is canceled and not replaced, AGENCY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by AGENCY will be promptly reimbursed by CONTRACTOR. Upon CONTRACTOR's failure to make such reimbursement within 30 days of written demand, AGENCY may deduct that sum from any monies due CONTRACTOR hereunder or otherwise.

7-4.2.9 CONTRACTOR agrees to provide evidence of the insurance required herein, satisfactory to AGENCY, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to CONTRACTOR's general liability and umbrella liability policy (if any) using ISO form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage. CONTRACTOR agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. CONTRACTOR agrees to provide complete copies of policies to AGENCY upon request.

7-4.2.10 CONTRACTOR shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof shall be furnished within 72 hours of the expiration of the coverages.

7-4.2.11 Any actual or alleged failure on the part of AGENCY or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of AGENCY or any additional insured, in this or any other regard.

7-4.2.12 CONTRACTOR agrees to require all subcontractors or other parties hired for this project to provide general liability insurance naming as additional insureds all parties to this Agreement. CONTRACTOR agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. CONTRACTOR agrees to require that no contract used by any subcontractor, or contracts CONTRACTOR enters into on behalf of AGENCY, will reserve the right to charge back to AGENCY the cost of insurance required by this Agreement. CONTRACTOR agrees that upon request, all agreements with subcontractors or others with whom CONTRACTOR contracts on behalf of AGENCY will be submitted to AGENCY for review. Failure of AGENCY to request copies of such agreement will not impose any liability on AGENCY, its officers, agents, or employees.

7-4.2.13 If CONTRACTOR is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operations are insureds.

7-4.2.14 CONTRACTOR agrees to provide immediate notice to AGENCY of any claim or loss against CONTRACTOR that includes AGENCY as a defendant. AGENCY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims.

## **7-5 PERMITS**

Delete the first paragraph and replace with the following:

Prior to the start of any work, the Contractor shall apply for and receive any applicable City, County, State, and Federal permits.

## **7-7 COOPERATION AND COLLATERAL WORK**

Add the following:

Contractor shall coordinate his/her work so as to minimize disruption to ongoing or scheduled private development projects in the project area.

## **7-8 PROJECT SITE MAINTENANCE**

### **7-8.1 CLEANUP AND DUST CONTROL**

Add the following Subsection:

#### **7-8.1.2 Work Area Appearance**

The Contractor shall maintain a neat appearance to the Work.

All unsuitable construction materials and rubbish and debris shall be regularly removed from the job site, be transported to a suitable location, and be disposed of in a proper and legal manner.

In any area visible to the public, the following shall apply:

1. Broken concrete and debris developed during clearing and grubbing shall be disposed of weekly.
2. The Contractor shall furnish trash bins for all debris from structure construction. All debris shall be placed in trash bins daily.
3. Forms or false work that are to be re-used shall be neatly stacked concurrent with their removal.
4. Forms and false work that are not to be re-used shall be disposed of with their removal.
5. Wash down from concrete trucks shall be at one location. Concrete from wash down procedures shall be removed from the site weekly.

#### **7-8.6 Water Pollution Control**

Add the following to Subsection 7-8.6:

##### **7-8.6.1 General**

This item shall consist of preparation, implementation and compliance with a storm water pollution prevention plan (SWPPP) for the project, if applicable.

##### **7-8.6.2 SWPPP Preparation**

Contractor shall submit to the engineer a completed and signed SWPPP at the preconstruction conference. The plan may utilize the practices recommended in the *California Storm Water Best Management Practices Handbook* dated January 2007, available from California Stormwater Quality Association (CSQA), and online at <http://www.cabmphandbooks.net/>. The plan shall be consistent with the construction General Permit, issued by the State Water Resources, Control Board, through submittal of the Notice of Intent (NOI).

If construction will occur between October 15 and April 15 (considered as the rainy season per the Agency's Ordinance), a wet weather erosion control plan must be submitted. Additionally, Best Management Practices (BMPs) implemented during the Agency's rainy season shall include but not be limited to those appropriate for wet weather conditions.

##### **7-8.6.3 STORM WATER POLLUTION PREVENTION MEASURES**

All storm water pollution prevention measures shall be in accordance with the submitted SWPPP. In the event circumstances during the course of construction require changes to the original SWPPP, a revised plan shall be promptly submitted to the Agency's representative in each instance. No responsibility shall accrue to the Agency as a result of the plan or as a result of knowledge of the plan. All work installed by the Contractor in connection with the SWPPP but not specified to become a permanent part of the project shall be removed and the site restored in so far as practical to its original condition prior to completion of construction or when directed by the Agency's representative.

##### **7-8.6.4 STORM WATER POLLUTION PREVENTION - MEASUREMENT AND PAYMENT**

Unless otherwise indicated in the Special Provision, measurement and payment for Storm Water Pollution Prevention Measures, as described herein, shall be included in the items of Work requiring storm water pollution prevention measures as indicated in the project Special Provisions. Such payment shall be considered full compensation for all labor, materials, tools, and equipment for completion, and implementation and compliance with the SWPPP.

#### **7-9 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS**

Delete the second paragraph and replace with the following:

The Contractor shall relocate, repair, replace or reestablish all existing improvements within the project limits (e.g., curbs, sidewalks, driveways, fences, walls, sprinkler systems, signs, utility installations, pavements, structures, survey monuments, landscaping, etc.) that are damaged or removed as a result of the Contractor's operations or as required by the plans and specifications.

All existing improvements, either within the right-of-way or not, including irrigation lines that are damaged by actions of the Contractor, shall be restored by the Contractor to their original or better condition at the Contractor's expense.

The Contractor shall mark, as approved by the Engineer, all survey monuments, manholes, valves, substructures, or other items that are visible on the surface and will be covered by his operations. This shall be completed prior to the start of that operation and approved by the Engineer.

Existing traffic striping, pavement markings, and curb markings shall also be considered as existing improvements and the Contractor shall repaint or replace, at the Contractor's expense, such striping or markings (except for traffic striping and pavement markings within the limits of the Work) if damaged or if their reflectivity is reduced due to construction operations.

Delete the last paragraph and replace with the following:

All costs to the Contractor for protecting, removing, restoring, relocating, repairing, replacing, or reestablishing existing improvements shall be included in the Bid.

## **7-10 PUBLIC CONVENIENCE AND SAFETY**

Add the following:

At the pre-construction meeting, the Contractor shall submit his/her complete construction schedule to the Engineer for approval. The Contractor shall submit requests for changes in the schedule to the Engineer for approval at least forty eight (48) hours prior to the scheduled Work.

### **7-10.1 TRAFFIC AND ACCESS**

Add the following:

The Contractor will be required to maintain at least one lane of traffic in each direction through the project area at all times in a manner satisfactory to the Engineer in the form of an engineered traffic control plan. The engineered traffic control plans must be signed by a California registered civil and/or traffic engineer. The plan is a required submittal for review at the pre-construction meeting.

All traffic control on the project shall be implemented by a sub-contractor who specializes in Traffic Control and is approved by the City Engineer.

Add the following Subsection:

#### **7-10.1.2 Parking Restrictions and Posting for Tow Away**

No Parking signs, posted by the Contractor, shall be of heavy card stock and not less than 1.75 square feet of surface area on the face. Background color shall be white and letters shall be printed in red water resistant ink except day, date, and time of restriction may be printed in black water resistant ink. The signs shall be printed with the words "Tow Away" and "No Parking" with a character height of not less

than 2.75 inches and a stroke width of not less than 0.5 inches. The day, dated, and time of the particular restriction shall be printed or attached below the above mentioned wording in characters of not less than 2.0 inches in height and 0.4 inches in stroke width. The day of the week shall be written out or properly abbreviated with three to four letters; date or dates or restriction shall be listed completely; the beginning and ending times shall be clearly listed on the sign.

Signs shall be mounted such that the wording "No Parking" are at an elevation at least three feet above the adjacent flowline. Signs may be tied with string to trees and power poles, taped to existing sign poles, or mounted to stakes or barricades as provided by the Contractor. The signs shall be placed as needed to control the parking of cars within the construction zone; signs shall be placed at intervals of 75 feet or less along each side of the roadway.

Signs shall be posted and maintained by the Contractor for a period of 72 hours prior to the restrictions becoming effective. The Contractor may only post parking restrictions that are effective for the duration of the Work. Upon completion of the Work, the Contractor shall promptly and completely remove and dispose all signs, stakes, and barricades. The Contractor shall promptly reset or replace all damaged or defective signs.

The Contractor shall be fully responsible for the adequate removal of all parked cars. The Contractor shall coordinate the removal of all vehicles with the Sheriff Department. The Contractor shall notify the Sheriff Communications Center upon posting of the parking restrictions for a particular street. For removal of parked vehicles, the Contractor shall notify the Sheriff Communications Center not less than two hours prior to the needed removal, stating the address nearest the parked vehicle, make, model, color and license number. The City shall not be responsible for any delay or additional costs associated with the removal of parked cars that obstruct the construction operation.

If a vehicle owner successfully contests a towing citation in court, and their citation is dismissed for causes related to the Contractor's failure to perform the requirements of this section, the Contractor shall reimburse the City for the cost of any claims associated with the towing citation.

DEVIATIONS FROM THE REQUIREMENTS OF THIS SUBSECTION WILL BE PERMITTED ONLY ON PRIOR CONSENT OF THE ENGINEER. FAILURE OF THE CONTRACTOR TO ADHERE TO THE REQUIREMENTS OF THIS SUBSECTION, OR FAILURE OF THE CONTRACTOR TO COMPLETE HIS DAILY SCHEDULE ONCE "TEMPORARY NO PARKING" SIGNS HAVE BEEN POSTED, WILL RESULT IN DAMAGES BEING SUSTAINED BY THE CITY. SUCH DAMAGES ARE, AND WILL CONTINUE TO BE, IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE. FOR EACH OCCURRENCE OF A VIOLATION, AS PROVIDED HEREIN, THE CONTRACTOR SHALL PAY TO THE AGENCY, OR HAVE WITHHELD FROM MONIES DUE TO IT, THE SUM OF \$1,000.00.

EXECUTION OF THE CONTRACT SHALL CONSTITUTE AGREEMENT BY THE AGENCY AND CONTRACTOR THAT \$1,000.00 PER VIOLATION IS THE MINIMUM VALUE OF THE COST AND ACTUAL DAMAGE CAUSED, THAT SUCH SUM SHALL NOT BE CONSTRUED AS A PENALTY, AND THAT SUCH SUM MAY BE DEDUCTED FROM PAYMENTS DUE THE CONTRACTOR.

### **7-10.3 STREET CLOSURE, DETOURS, BARRICADES**

Add the following:

All traffic control barricades, signs and devices used by the Contractor shall, as a minimum, conform to the "Manual of Traffic Controls for Construction and Maintenance Work Zones," adopted by and in current use by the State of California, Department of Transportation. Channelization devices shall be

spaced no greater than fifty (50) feet apart. The Contractor shall take additional precautions as he/she may find necessary under the circumstances.

Should the Contractor fail to provide adequate traffic control or safety barricades, and in the event a responsible individual cannot be located or refuses to perform, the Agency will at its option place needed devices or engage a private firm to place and maintain said barricades, which will be charged to the Contractor directly.

Full street closures will not be allowed prior to City Council approval.

### **9-3 PAYMENT**

#### **9-3.2 PARTIAL AND FINAL PAYMENT**

Delete the last paragraph of this subsection and replace with the following:

The closure date for period progress payments will be the twenty-fifth day of each month. Authorization to pay is commonly received on the second Wednesday of the following month. The Agency requires four to six weeks to review all progress payments, issue payment checks, present progress payment to Council for approval, and release payment to contractor. However, payments will be withheld pending receipt of any outstanding reports required by the Contract Documents. In addition, the final progress payment will not be released until the Contractor returns the control set of plans and specifications showing the as-built conditions.

The full ten (10) percent retention will be deducted from all payments. The final retention will be authorized for payment thirty five (35) days after the date of recordation of the Notice of Completion.

The Contractor may substitute securities for any monies withheld by the Agency to ensure performance under the Contract as provided in Public Contract Code Sections 10263 and 22300.

Add the following subsection:

#### **9-3.3 DELIVERED MATERIALS**

Materials and equipment delivered but not incorporated into the Work will not be included in the estimate for progress payment

**SECTION F  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

**SPECIAL PROVISIONS - 700 SERIES**

**SCOPE OF WORK**

---

**UST REMOVAL**

---

This UST system is comprised of two (2) 5,000-gallon Plasteel tanks. Both gasoline and diesel product have been stored at various times in the past in the tanks.

**Remove the Underground Storage System (UST) system under the direction of the Orange County Health Care Agency – Environmental Health (OCHCA).**

OCHCA is the lead agency on UST closures in the Orange County. Contractor will obtain the necessary UST closure permits, and schedule and coordinate the UST removal activities in accordance with all current local, state and Federal laws.

**The UST system will be uncovered and exposed, triple-rinsed and degassed in accordance with OCHCA regulations, inspected, excavated and removed from the ground.**

The USTs will be transported by truck to a licensed disposal facility which will provide a certificate of destruction for the three tanks.

**Conduct all required VOC vapor monitoring in accordance with current guidance of the South Coast Air Quality Management District (SCAQMD) Rule 1166.**

A photo-ionization detector (PID) will be used to monitor for the presence of VOC vapors in the excavated fill material around the tanks. The results will be tabulated and presented in the UST removal report.

**Soil confirmation samples will be collected and analyzed in accordance with current LAFD guidelines.**

Up to 12 soil/fill samples will be collected using EPA Method 5035 for analysis for volatile organic compounds (VOCs) using EPA Method 8260B. Analysis for total petroleum hydrocarbons (full range scan) using EPA Method 8015M will also be completed.

**Soil/fill material determined to be potentially impacted by petroleum hydrocarbons based on PID readings and physical observation will be segregated and stockpiled.**

The stockpile of all excavated soil will be covered with plastic sheeting at the end of each day. Confirmation samples will be collected as necessary to document the status of the excavated material and to determine if it is suitable for use at the site.

**Disposition of the excavated material will be determined by laboratory results.**

Soil fill material may be used if it is certified as suitable for re-use by the OCHCA. If soil is not deemed suitable for re-use it will require removal from the site and disposal at an approved facility at contractor's expense.

**The UST excavations will be backfilled with a combination of crush rock and clean imported soil material.**

Backfill compaction testing will be provide by City's consultant. Groundwater is anticipated to be present at approximately 10 feet below surface grade based on waters levels measured in two onsite monitoring wells.

**A UST Closure Report will be prepared and submitted to the Orange County Health Care Agency.**

A UST closure report will be prepared and submitted to OCHCA which will be signed and stamped by a Registered Professional Geologist as required by OCHCA.

---

#### **General Conditions**

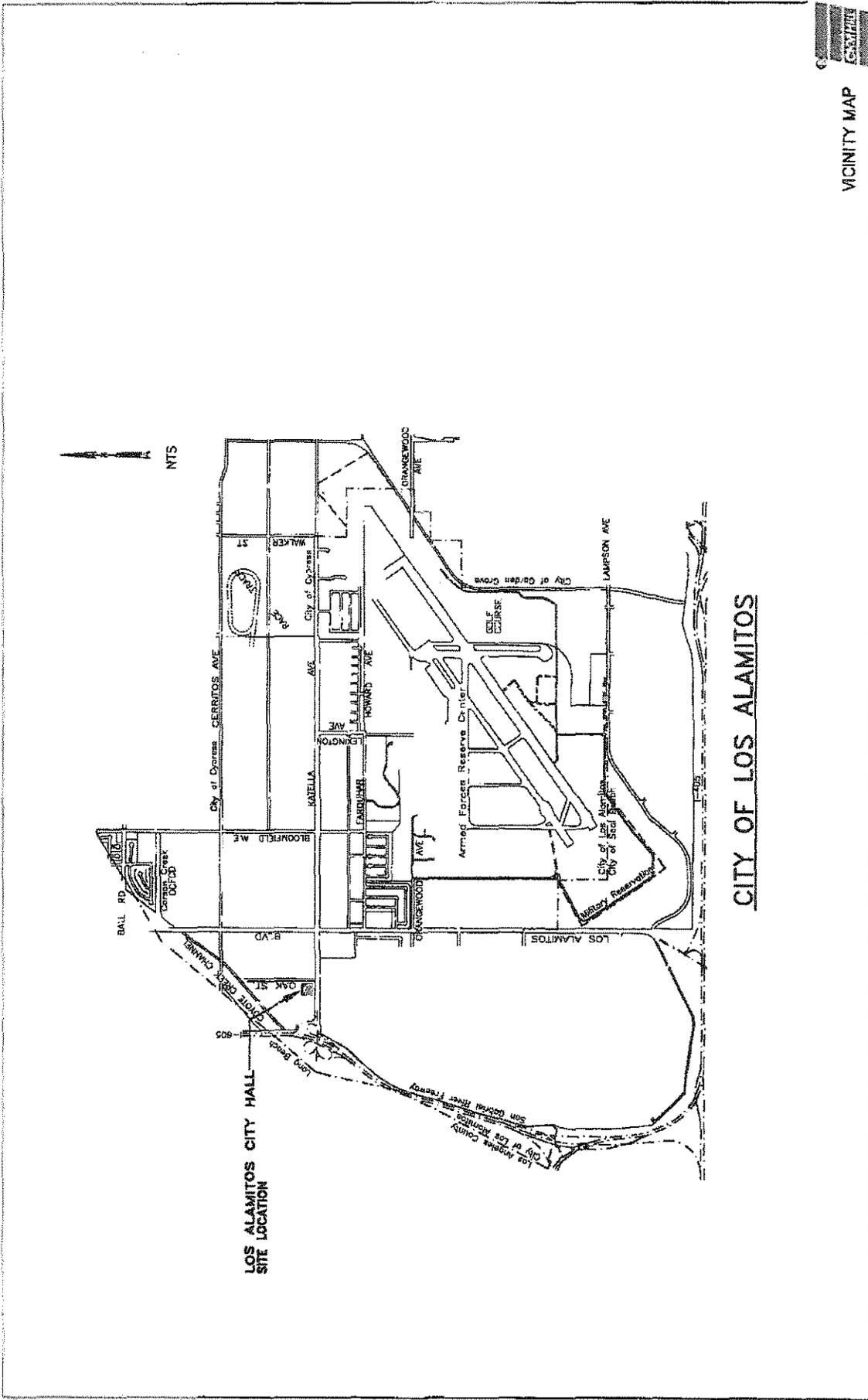
---

1. Tanks will be free of any anchors or a slab under them.
2. The asphalt removed and replaced will be 5" thick.
3. Concrete above the tanks will be no more than 8" thick.
4. 6" of CAB will be installed in all areas that will be resurfaced with asphalt.
5. Concrete slab below tank can remain in place
6. Prices include costs to perform a geophysical survey to locate the locations of the tanks, lines, and utilities.
7. The trench that will be cut for the removal of the dispenser lines will be no greater than 20' from the tank hole.
8. Trench plates will not be required; delineators and caution tape can be used to secure the areas at the end of each day

**APPENDIX 1  
CITY YARD UST REMOVAL  
CIP NO. 11/12-01  
IN THE CITY OF LOS ALAMITOS, CALIFORNIA**

**Existing Gas Tank Plans  
Inspection Report Dated 3/1/2012  
Public Works Encroachment Permit General Conditions**





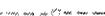
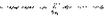
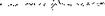
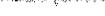
**CITY OF LOS ALAMITOS**

VICINITY MAP

CRT TERMINAL FOR FUEL MANAGEMENT SYSTEM (2ND STORY)  
TANK MONITOR (API RONAN OR EQUIVALENT)

**NOTE**  
ALL EXISTING EQUIPMENT AND UTILITY LINES ARE SHOWN GREY. ALL NEW EQUIPMENT AND UTILITY LINES ARE SHOWN BLACK.

**LEGEND**

-  GAS LINE
-  WATER LINE
-  ELECTRICAL LINE
-  PRODUCT LINE
-  VENT LINE
-  STAGE II VAPOR RECOVERY LINE
-  MESSENGER CABLE
-  CONCRETE

 INSTALL NEW 2-STAGE NPDES DRAIN

INSTALL 2 SPARE 2" SCHEDULE 40 ELECTRICAL CONDUIT AND CAP ENDS

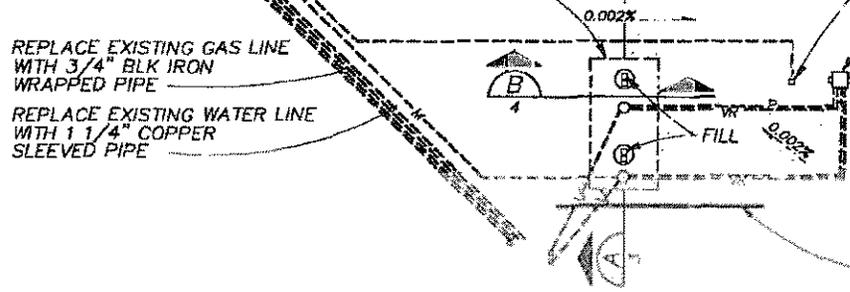
10,000 GALLON UST DUAL 5,000 GALLON COMPARTMENTS

REPLACE EXISTING GAS LINE WITH 3/4" BLK IRON WRAPPED PIPE

REPLACE EXISTING WATER LINE WITH 1 1/4" COPPER SLEEVED PIPE

PETRO VEND K800 FUEL MANAGEMENT SYSTEM OR EQUIVALENT

BENNETT FLEET MASTER (MODEL 3925) DUAL PRODUCT TWIN DISPENSER OR EQUIVALENT



PROPOSED SHORING LOCATION

NTS

FIGURE 2  
CITY OF LOS ALAMITOS  
CITY HALL COMPLEX  
NEW INSTALLATION PLAN

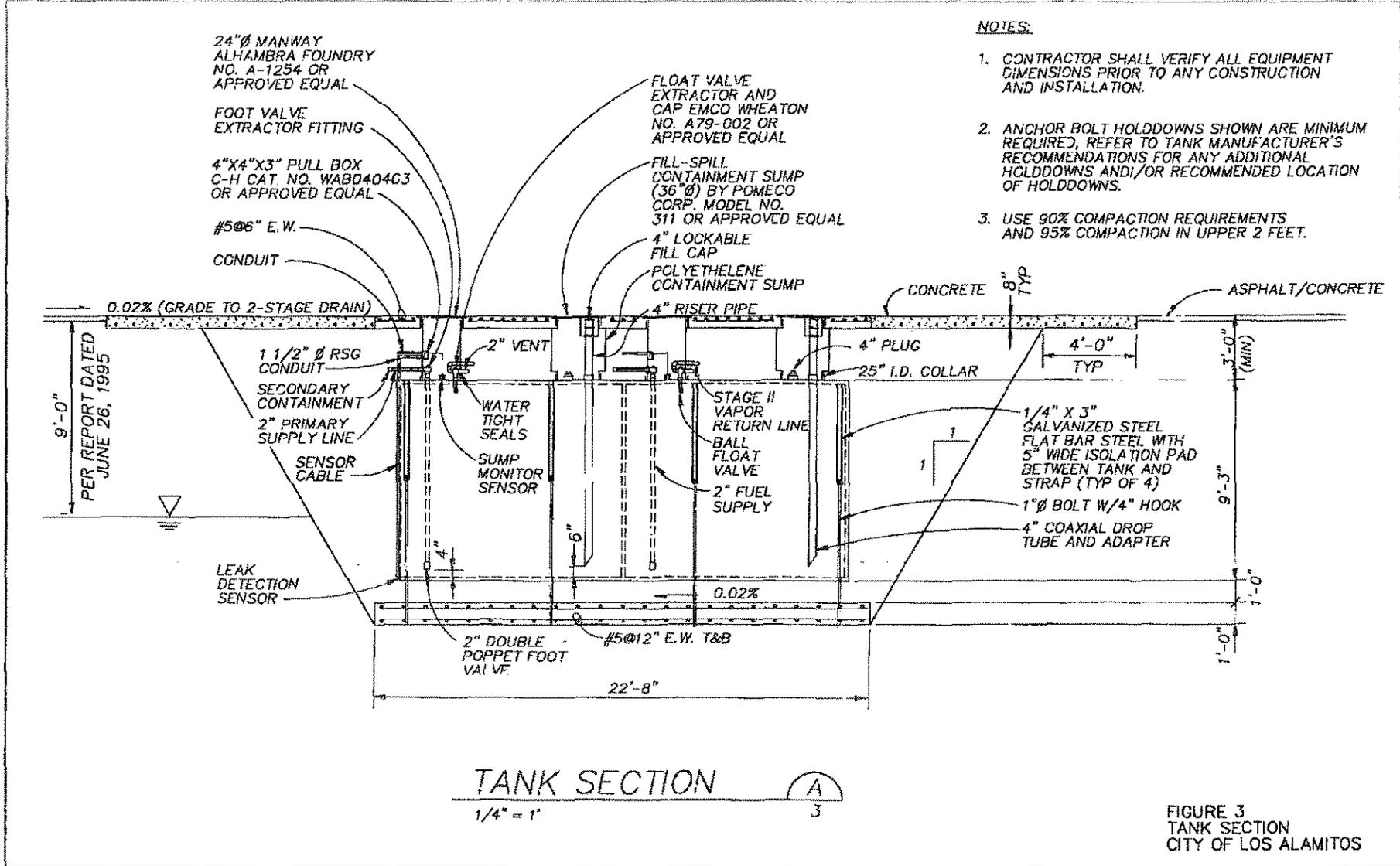
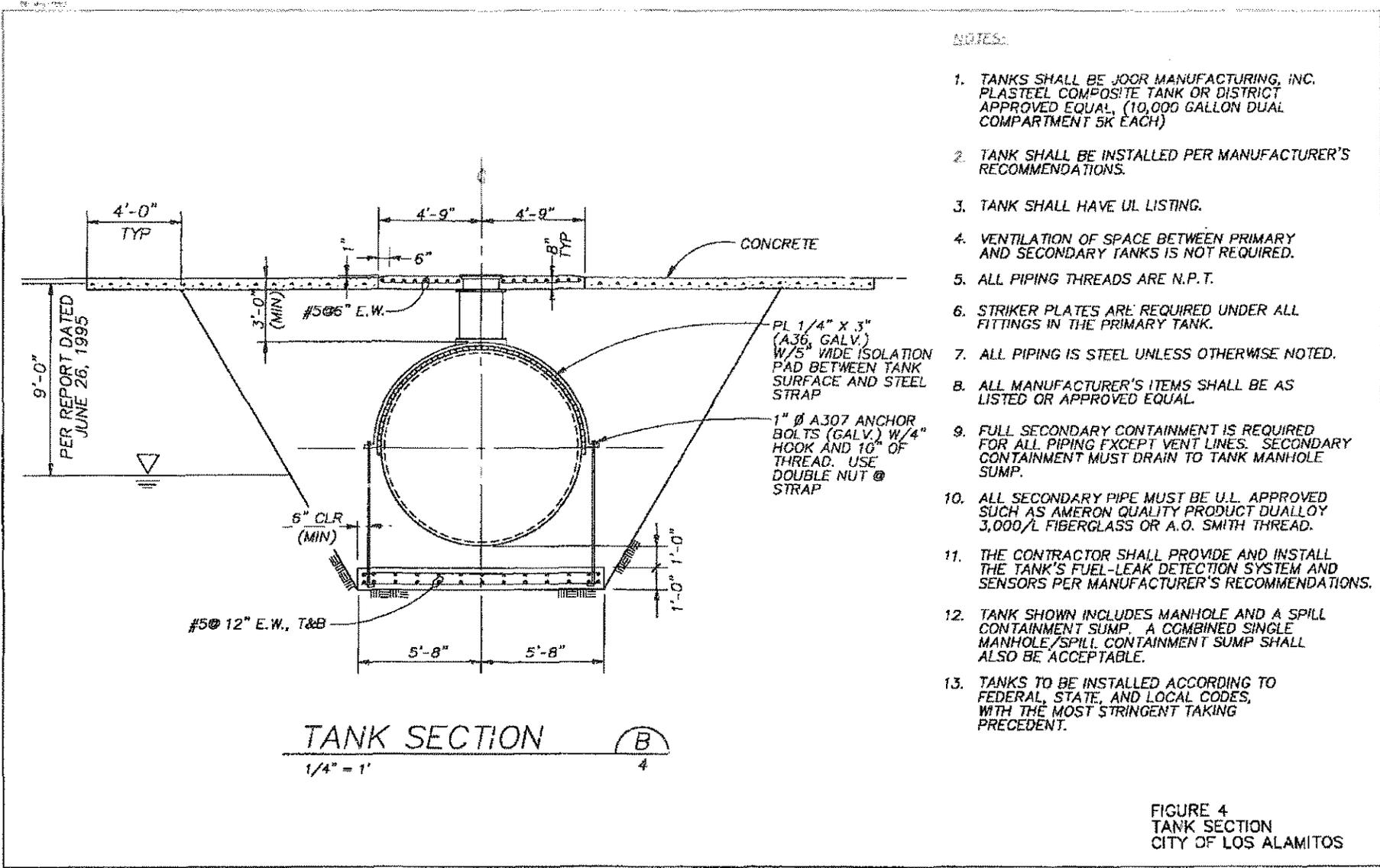


FIGURE 3  
TANK SECTION  
CITY OF LOS ALAMITOS



- NOTES:
1. TANKS SHALL BE JOOR MANUFACTURING, INC. PLASTEEL COMPOSITE TANK OR DISTRICT APPROVED EQUAL, (10,000 GALLON DUAL COMPARTMENT 5K EACH)
  2. TANK SHALL BE INSTALLED PER MANUFACTURER'S RECOMMENDATIONS.
  3. TANK SHALL HAVE UL LISTING.
  4. VENTILATION OF SPACE BETWEEN PRIMARY AND SECONDARY TANKS IS NOT REQUIRED.
  5. ALL PIPING THREADS ARE N.P.T.
  6. STRIKER PLATES ARE REQUIRED UNDER ALL FITTINGS IN THE PRIMARY TANK.
  7. ALL PIPING IS STEEL UNLESS OTHERWISE NOTED.
  8. ALL MANUFACTURER'S ITEMS SHALL BE AS LISTED OR APPROVED EQUAL.
  9. FULL SECONDARY CONTAINMENT IS REQUIRED FOR ALL PIPING EXCEPT VENT LINES. SECONDARY CONTAINMENT MUST DRAIN TO TANK MANHOLE SUMP.
  10. ALL SECONDARY PIPE MUST BE U.L. APPROVED SUCH AS AMERON QUALITY PRODUCT DUALLOY 3,000/L FIBERGLASS OR A.O. SMITH THREAD.
  11. THE CONTRACTOR SHALL PROVIDE AND INSTALL THE TANK'S FUEL-LEAK DETECTION SYSTEM AND SENSORS PER MANUFACTURER'S RECOMMENDATIONS.
  12. TANK SHOWN INCLUDES MANHOLE AND A SPILL CONTAINMENT SUMP. A COMBINED SINGLE MANHOLE/SPILL CONTAINMENT SUMP SHALL ALSO BE ACCEPTABLE.
  13. TANKS TO BE INSTALLED ACCORDING TO FEDERAL, STATE, AND LOCAL CODES, WITH THE MOST STRINGENT TAKING PRECEDENT.

FIGURE 4  
TANK SECTION  
CITY OF LOS ALAMITOS



**INSPECTION REPORT**  
 County of Orange, Health Care Agency, Environmental Health  
 1241 EAST DYER ROAD, SUITE 120  
 SANTA ANA, CA 92705-5611  
 (714) 433-8000  
 ochealthinfo.com/eh

DA3931978  
 Page 1 of 1

PR0024145

**LOS ALAMITOS CIVIC CENTER**  
**3191 KATELLA AVE**  
**LOS ALAMITOS, CA 90720**

Record ID: FA0024119  
 Inspection Date: 03/01/2012  
 Reinspection Date:

Type of Facility: 7095-UNDERGROUND STORAGE TANK (PR)  
 Service: F04-FOLLOW-UP INSPECTION -  
 OFF-SITE

Mailing Address:  
 CITY OF LOS ALAMITOS  
 MAINTENANCE DEPARTMENT  
 3191 KATELLA AVE  
 LOS ALAMITOS, CA 90720

Susan Berg  
 HAZARDOUS WASTE SPECIALIST III  
 (714) 433-6231  
 7:00-9:00 a.m.  
 sberg@ochca.com

**COMMENTS**

**ZZZ9 - INSPECTOR COMMENTS**

This Agency received the following documents:

Monitoring system certification dated 1/9/12  
 Secondary containment test report dated 1/9/12

The secondary containment test report appears consistent with the OCHCA-approved testing procedure submitted by JDS Tank Testing. The following components were successfully tested:

- Tank annular
- Piping sumps (2)
- Secondary piping (2)
- UDC
- Spill buckets (2)

Thank you.

*I declare that I have examined and received a copy of this inspection report.*

Print Name and Title

**COPY MAILED TO OWNER**

Signature

**AND/OR**

Date

**FACILITY OPERATOR**

# City of Los Alamitos

## Agenda Report Discussion Items

June 4, 2012  
Item No:10A

**To:** Mayor Troy D. Edgar & Members of the City Council  
**Via:** Angie Avery, City Manager  
**From:** Steven A. Mendoza, Community Development Director  
**Subject:** Consolidated Disposal's Public Education and Outreach Program

**Summary:** This report provides the details related to the Public Education and Outreach Program to be conducted by Consolidated Disposal as a provision of its five-year contract.

**Recommendation:** Receive and file or alternatively direct staff accordingly.

## Background

In June 2010, the City of Los Alamitos entered into a contract for the Provision of Solid Waste Services with Consolidated Disposal Services (CDS). The contract took effect as of January 1, 2011. Section 6.03 of the contract requires Consolidated Disposal Services to prepare and submit an annual Public Education and Outreach Program ("Program").

The Program has a budget of \$280,000 over the five-year period. Over a four month period in 2011, the Program was developed in conjunction with the City Manager's Office, Community Development, Recreation and Community Services, and Public Works. Each department provided insight to services that could be improved through outreach and education to both the residential and business communities. The Program was then forwarded to Consolidated Disposal for final concurrence before the program was finalized.

During the May 21, 2012, City Council Meeting, Council requested that the Program be agendaized for discussion.

## Discussion

The purpose of the Public Outreach and Education Services section of the contract is to have a plan for educating the residents and businesses regarding the environmental,

regulatory, and other benefits of participating in recycling; as well as, providing education regarding green waste, bulky waste, and holiday tree pickups.

Consolidated Disposal's Public Education and Outreach expenditures are divided into four categories: City Events, Publications and Media, City Assets, and Business Education. The \$280,000 allocated over the five-year term of the contract is structured that if expenditures are not spent in any given year, they are automatically rolled over to the next fiscal year.

The expenditure allocation over the five-year contract is as follows:

\$151,875 has been allocated toward City Events such as Race on the Base, Fourth of July, and Multi-Family Neighborhood Clean Up days.

Date	Amount Received To Date	Description
2011	\$7,500	Race on the Base
2011	\$15,000	4 <sup>th</sup> of July
2012	\$10,000	Race on the Base
2012	\$129.30	Multi-Family Clean Up Day in Old Town East
TOTAL	\$32,629.30	

\$89,375 has been allocated to Publication and Media including the City's Recreation Services Brochure, Chamber Directory (City portion), LATV commercial for recycling education, Los Alamitos High School Athletics Broadcasts, and additional mailings as necessary.

2012	\$3,000	Quarterly Recreation Brochure
2012	\$6,500	Los Al High Athletic Broadcasts* billed but not received yet
TOTAL	\$9,500	

\$20,000 has been allocated toward the cost of Big Belly Solar Powered Trash compactors at high traffic bus stops (west side of Los Alamitos Blvd adjacent to the high school and near McDonalds on Katella Avenue).

- o These will be researched and purchased in 2013.

\$18,750 has been allocated toward Business Education to ensure that Los Alamitos' business community is properly informed regarding recycling.

- o The City has not billed for any of these funds as they were designed for Consolidated Disposal outreach to the business community through the Chamber of Commerce.



Big Belly Solar Compactor

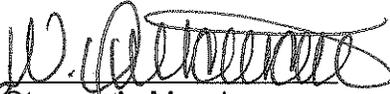
The abovementioned Public Education and Outreach Program was approved in a correspondence dated September 30, 2011, between the then City Manager and Consolidated Disposal.

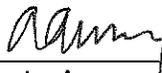
## **Fiscal Impact**

There is no fiscal impact related to review of this item. The Public Outreach funds provided for in the City's contract with Consolidated Disposal saves the City money by augmenting programming and providing services that, in most cases, would not otherwise be provided.

Submitted By:

Approved By:

  
for Steven A. Mendoza  
Director of Community Development

  
\_\_\_\_\_  
Angie Avery  
City Manager

*Attachments:*

- 1. Section 6.03 of Contract for the Provision of Solid Waste Services*
- 2. September 30, 2011 Correspondence*
- 3. Outreach Budget Spreadsheet.*

**Contract for the Provision of Solid Waste  
Services with Consolidated Disposal Services  
for the provision of Waste Collection within the  
City of Los Alamitos**

**Section 6.03**

**6.03 Public Outreach and Education Services**

Contractor, at their own expense, shall prepare, submit and implement an annual (calendar year) Public Education and Outreach Program beyond the City's Public Education and Outreach Program. The proposed Program, including a budget, must be submitted annually for City approval no later than September 30 for the next calendar year. The Public Education and Outreach Program budget shall be no less than \$80,000 in the first year of service, and \$50,000 per year thereafter. Any amounts not actually expended in a given service year shall be carried over to, and expended in, the following year and shall be in addition to the minimum budget amount for the year in which they are expended. The program must include a minimum of four campaigns per calendar year, designed to increase diversion and resident participation. Campaigns should target certain Recyclable Materials or "problem" areas of the Service Area where improvements can be maximized. Targets of outreach should be based on local trends and recycling patterns based on information obtained by both the Contract Administrator and Contractor staff.

**6.03.1 Implementation and Ongoing Education Services**

In order to promote public education, in addition to any other materials it develops, Contractor shall create the following public education materials and programs at its expense, which will be distributed as indicated below. All brochures, mailings, and other educational materials are to be approved by City in advance of distribution.

- **Initial Mailing/Cart Options** – Contractor will prepare and mail (or be responsible for seeing that the City has mailed) an initial information packet to all Customers explaining the transition from the existing Solid Waste Handling Service program to the new program as defined by this Contract. The mailing will describe program changes, route changes, dates of program implementation, Recycling and diversion programs available, and other pertinent information.

Contractor will provide a reply card on which Customers may select the size Carts which they will be distributed.

- **Instructional "How-to" Packets** – An information packet shall be provided to each Customer at the start of service under this Contract and to each new Customer throughout the Contract term. Contractor may attach these packets to the Carts upon initial Cart distribution.

This packet shall: describe available services, including available Recycling and diversion programs; provide instructions for proper use of the Carts and Bins provided (such as how to place Carts or other permitted items for Collection, the types of materials to be placed in each Cart); detail holiday Collection schedules; and provide billing and customer service telephone numbers. This packet will contain updated information on how to use Containers, when, where and how to place Solid Waste for Collection, and who to contact with service or billing questions, and for Bulky Item Collection.

The packet should also clearly indicate what materials, such as syringes and other Household Hazardous Wastes (HHW), should not be disposed of in these Containers. This brochure shall include instructions on how Customers should dispose of HHW, such as information on the HHW drop-off facilities and other available programs.

- **LATV and Television Programming** – Contractor shall work with Los Alamitos Television (LATV) to prepare and air appropriate service announcements and programming on LATV to inform residents of available services, changes in service and the need for proper waste disposal, diversion and recycling. Prior to December 31, 2011, Contractor shall produce at least one (1) half hour television program promoting proper solid waste disposal and recycling to be aired on LATV. The Public Education and Outreach Program budget for the first service year shall include a payment to City of \$20,000 for the purchase of cameras and equipment for the local LATV studio, which payment shall be made on January 1, 2011. The equipment purchased shall be available to Contractor for use in preparing programming on LATV.
- **Container Labels and Hot Stamps** – Recycling and Green Waste Containers shall carry stickers/labels and hot stamps as described in Section 7.06.1.
- **Annual Newsletter** – Not less than once per year during each Rate Year, Contractor shall prepare and distribute to each Customer a brochure or newsletter promoting and explaining: all Solid Waste programs offered by City and Contractor (such as Recycling, Green Waste, Holiday Tree and Bulky Waste pick-ups) described in detail; the environmental, regulatory, and other benefits of participating in Recycling; how to properly dispose of Household Hazardous Waste such as syringes, paint, etc., through the County's program or other means; Collection schedules, including holiday schedules; customers service numbers; and the procedures to begin and terminate services. City may provide mailing labels from its billing system.
- **Corrective Action Notice** – Contractor shall develop a corrective action notification form for use in instances where a Customer sets out

inappropriate materials for Collection that explains the appropriate manner for Disposal of such items.

- **Website** – Contractor shall develop and maintain a website with a page specific to the City, to enable City's Customers to contact Contractor and to display holiday schedules, proper HHW disposal procedures, which materials are to be placed in Recycling Containers and other useful information. Contractor will assist the City in establishing a link on the City's website to Contractor's page.

### **6.03.2 Annual Collection Service Notice**

Each year during the term of this Contract, the Contractor shall publish and distribute a notice to all Residential Customers regarding the Residential Service programs. The notice shall contain at a minimum; definitions of the materials to be collected, procedures for setting out the materials, service rates and discounts, maps of the Service Area indicating the days when Residential Refuse, Recycling and Green Waste Collection Services, Residential Bulky Waste Collection Services will be provided, and the City customer service phone number. The notice shall be provided in English and other languages as directed by the City and shall be distributed by the Contractor no later than December 15, 2010, during the first year of the Contract and no later than December 1 of each year thereafter.

### **6.03.3 Contractor Representative**

Contractor shall retain on its staff an individual who shall, as part of his or her job function, routinely visit civic groups, school assemblies, homeowners' associations, multi-family complexes and businesses, to promote and explain the Recycling and other programs Contractor offers, and participate in demonstrations and civic events.

### **6.03.4 Community Events**

At the direction of City, Contractor shall participate in and promote Recycling and other diversion techniques at community events and local activities. Such participation would normally include providing, without cost, Collection and educational and publicity information promoting the goals of City's Solid Waste program.

---

**CONSOLIDATED DISPOSAL SERVICE**  
A Subsidiary of  **REPUBLIC SERVICES, INC.**

September 30, 2011

Mr. Jeff Stewart  
City Manager  
City of Los Alamitos  
3191 Katella Avenue  
Los Alamitos, CA 90720

2495 E. 68th Street  
Long Beach, CA 90805  
Facsimile (562) 531-4710

RE: Public Outreach Proposal

Dear Mr. Stewart:

While many people are familiar with the benefits of recycling, there remains a large segment of the population that continues to throw away recyclable materials. Our Agreement with the City of Los Alamitos includes a robust education and outreach program to increase recycling and thereby reduce the City's solid waste contributions to local landfills. Our outreach proposal, developed in cooperation with you and other City staff, was designed to educate both residents and businesses in Los Alamitos in a variety of public programs through the year 2015 with a total budget of \$280,000. Please review the below proposal and attached budget for approval.

The outreach proposal is designed in four primary areas including City Events; Publications and Media; City Assets; and Business Education.

**City Events**

By maintaining a visible presence in the community, Consolidated Disposal Services will act as a regular reminder for residents to properly dispose of their household waste and maximize their recycling efforts. Our participation in City Events includes sponsorship of the "Race on the Base" and the Independence Day celebration where Consolidated will staff booths to provide information and educational materials to all attendees.

In addition to sponsoring these cherished events, Consolidated will also provide the necessary promotion, materials and labor for annual clean-up events in specific multi-family neighborhoods to be determined by your staff.

**Publications and Media**

To ensure we reach every resident, Consolidated proposes advertisement in formats available to every household in Los Alamitos. Our full-page ads in the City's Quarterly Recreation Brochure and the Los Alamitos Chamber Directory will feature basic service and contact information, recycling tips and reminders to properly dispose of household hazardous waste.

Consolidated also proposes to utilize LATV, the City's public-access television channel, by producing a custom thirty-minute educational video to be shown throughout the year in addition to sponsoring LATV broadcast of all Los Alamitos High School athletic events during their regular season.

In addition, we plan to reserve funds every year for any additional mailings as necessary.

### **City Assets**

Your staff identified another creative strategy to reach Los Alamitos residents and visitors in a public setting. The installation of solar-powered trash compactors in strategic locations (to be determined by City staff) throughout the City will elevate the awareness of proper disposal and provide a related benefit of minimizing labor expenditures related to servicing public containers. The available advertisement space on the solar compactors will provide additional opportunities to promote recycling in highly visible locations. These compactors, funded by Consolidated, would become City assets upon installation.

### **Business Education**

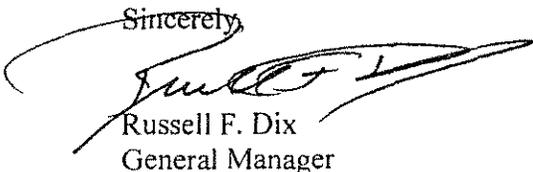
The State of California reports the commercial sector generates approximately 68% of all waste in landfills, much of which can be recycled. To reduce the sector's landfill contributions, the state adopted mandatory commercial recycling through AB32, which requires implementation of commercial recycling programs by July 1, 2012.

Over the course of the next several months, Consolidated Disposal will work with the Los Alamitos Chamber of Commerce to educate and prepare local businesses for the impending regulations to ensure the City complies with State law. Our partnership with the Chamber will include sponsorship of several regular Chamber events that will provide opportunities to directly communicate with business owners and other key stakeholders. In addition, Consolidated proposes to host informational seminars or "Lunch and Learns" that will focus specifically on mandatory commercial recycling.

In total, these outreach programs will prove to effectively reduce your City's solid waste contributions to landfills and assist in meeting AB 939 diversion goals. The attached proposal serves as a guideline for expenditures through 2015 and should be updated at least annually to reflect actual costs incurred.

Please review and let me know if you have any questions regarding the proposal and related budget. I look forward to working with you to further increase recycling efforts throughout the City of Los Alamitos.

Sincerely,



Russell F. Dix  
General Manager

**Consolidated Disposal Service  
Outreach Budget for the City of Los Alamitos**

Updated: 9/30/2011

	2011	2012	2013	2014	2015	TOTAL	% of Budget
<b>City Events</b> (inclusive of all associated costs)							
Race on the Base	\$ 8,100	\$ 10,600	\$ 13,100	\$ 13,100	\$ 15,600	\$ 60,500	54%
4th of July Sponsorship	\$ 15,600	\$ 15,600	\$ 15,600	\$ 15,600	\$ 15,600	\$ 78,000	
Annual Multi-Family Clean-Up Days	\$ 2,675	\$ 2,675	\$ 2,675	\$ 2,675	\$ 2,675	\$ 13,375	
<b>Publications and Media</b>							
Quarterly Recreation Brochure	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 30,000	32%
Chamber Directory		\$ 5,000		\$ 5,000		\$ 10,000	
LATV 30-minute commercial	\$ 4,000					\$ 4,000	
Los Al High Athletics Broadcast	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 32,500	
Additional Mailings as Necessary	\$ 2,500	\$ 2,500	\$ 2,875	\$ 2,500	\$ 2,500	\$ 12,875	
<b>City Assets</b>							
Big Belly Solar-Powered Compactors	\$ 20,000					\$ 20,000	7%
<b>Business Education</b>							
Annual Chamber Dues	\$ 750	\$ 750	\$ 750	\$ 750	\$ 750	\$ 3,750	7%
Chamber Event Sponsorships	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 12,500	
Commercial Recycling Education		\$ 2,500				\$ 2,500	
	<b>\$ 68,625</b>	<b>\$ 54,625</b>	<b>\$ 50,000</b>	<b>\$ 54,625</b>	<b>\$ 52,125</b>	<b>\$ 280,000</b>	

# City of Los Alamitos

## Agenda Report Discussion Items

June 4, 2012  
Item No: 10B

**To:** Mayor Troy D. Edgar and Members of the City Council

**From:** Angie Avery, City Manager

**Subject:** Setting the Dates for Two Community Meetings to Discuss the Reduction of Tax Rate and Modernization of the Current Telephone Users Tax

**Summary:** At the May 21, 2012 meeting, the City Council discussed the telephone user's tax issue and, specifically, whether to move forward with conducting two community meetings in June. In order to make the final determination, the Council directed staff to compile the following information:

1. An analysis of the response to local ballot measures from various cities that have maintained or lowered their telephone users tax to determine the impact in those cities.
2. A critical path of dates to consider before the measure is placed on the ballot.

**Recommendation:** Staff seeks authority to move ahead with the planning and execution of two community meetings in June, 2012 to educate the community, answer questions, solicit input and determine placement of the measure on the ballot. Staff views this as an issue brought forward to protect General Fund revenue and one that requires broad community support to succeed.

## Background

The City currently receives approximately \$650,000 yearly from the tax on telephone users (TUT). The City's tax is outdated because of new communications technologies and billing practices and it can be difficult to determine how to apply the tax to new technologies and billing plans. As a result, people who use older technologies are paying the tax, while those who use newer, advanced technologies may not get taxed. In addition, similar, outdated taxes in other cities have been the subject of lawsuits. In the event of a successful challenge to the City's tax, the City could lose some or all of the \$650,000 in revenue received annually from the TUT. These revenues pay for numerous City services including police, public works and parks and recreation.

The remedy for the outdated tax is to modernize the existing ordinance to amend the Municipal Code Section 3.20.070 (Telephone User Tax). A modernized ordinance would require annual reporting and public disclosure; modernize the language to treat taxpayers equally regardless of technology used; and use the proceeds to fund general

municipal services, such as police, public works and parks and recreation. The ordinance could also change the rate of the City's tax on communications users (e.g., lowering it from 6% to 5.5%) or leave it the same.

## **Discussion**

### Survey Efforts/Available Information

Staff researched eighteen (18) cities (attachment #2) that had voter approved TUT ballot measures between 2007 and 2009. Staff chose this time frame because it gave the greatest chance of being able to compare the revenue data before and after the election. Of the eighteen (18) cities surveyed, staff was able to make phone contact with twelve (12) of the cities -- the remainder of the cities were researched online.

TUT rates surveyed ranged anywhere from 2.4% to 10%. Eleven (11) of the eighteen (18) cities reduced their TUT rate, and seven (7) maintained their existing rate. Nine (9) of the eleven (11) cities reduced their rate by 0.5%, one (1) by 0.3%, and one (1) by 0.25%.

All cities had the same goal of updating their ordinance to protect the revenue from potential legal challenges, and creating fairness in implementation of the tax by broadening the base to include new technology.

Of the eighteen (18) cities surveyed, all of the ballot measures were approved by an overwhelming majority of voters.

Of the cities surveyed only six had specific TUT revenue information readily available. The others either did not track TUT separately from other revenues or did not have the information readily available in public documents.

### Post-Election Comments/Feedback

Of the twelve (12) cities contacted by telephone, there were very few comments made regarding the ballot measure after the election. As mentioned, most cities either kept their TUT tax rate the same or reduced it slightly. Eight cities said there were not any negative comments after the tax went into effect. Gilroy reported that people commented positively and were supportive. Feedback from San Jose noted that some companies complained about impacts on their business, and Torrance received a few complaints regarding being taxed in general.

### Economic Impact

Of the twelve (12) cities contacted by phone, the impact of the ballot measure on the cities revenue was inconclusive (Attachment #3). It appears that increases and decreases in the amount of TUT collected were more directly related to economic trends than the approval of the TUT ballot measure. All cities seemed to have increases in TUT revenues through FY 2009-10 and declines in FY 2010-11 regardless of when their TUT ballot measure was approved.

Timeline for Ballot Measure -- Requires Majority Approval of the Voters

Modernization of the City's TUT ordinance is governed by Proposition 218 and would require majority approval (50% + 1) by the voters. It should be noted that, if voters do not pass a modernized TUT measure, the existing TUT would remain in place and be preserved. However, if voters do not pass a modernized measure, there is now a significant risk of legal challenges to the existing ordinance and a potential loss of TUT revenues due to changing technology and market forces. If a measure is approved by the voters, it would replace and supersede the existing TUT.

June 18, 2012	Council discussion regarding possible ballot arguments and options.
July 16, 2012	<p>Last day for City Council to adopt Resolution adding a Measure to the Ballot of the already called General Municipal Election of November 6, 2012.</p> <p>The City Council will also adopt a Resolution setting priorities for arguments (limited to 300 words) regarding a City Measure and direct the City Attorney to prepare an impartial analysis (limited to 500 words).</p> <p>Optional – If it is the pleasure of the City Council, the Council may also elect to adopt a Resolution allowing for filing of rebuttal arguments for City measures submitted (limited to 250 words). The City Council may also elect not to allow for rebuttal arguments.</p>
July 17, 2012	City Clerk to post notice of Argument Deadlines (at least 14 days after the call of the election). Based upon the time reasonably necessary to prepare and print the arguments and sample ballots for the election, the City Clerk has fixed <u>July 30, 2012</u> , during normal office hours, as the date after which no arguments for or against the City measure may be submitted to the Clerk for printing and distribution to the voters.
July 30, 2012	Impartial Analysis from the City Attorney is due to the Clerk's Office. Last day for Arguments to be submitted to the Clerk's Office. City Clerk prepares the Arguments and Impartial Analysis for transmission to the County of Orange, Registrar of Voters (OC ROV).
July 31 – August 9, 2012	<p>Public Examination Period (10 days)</p> <p>If Council elected to allow rebuttals, 10 day period to file rebuttal arguments with the City Clerk's office.</p>
August 10, 2012	Last day to file arguments and impartial analyses with the OC ROV for inclusion on the November 6, 2012, ballot.

August 10 – August 19, 2012	Public Examination Period for Rebuttal Arguments (10 days)
August 15, 2012	Last day to withdraw measure from the ballot.
August 20, 2012	Last day to forward rebuttals to the OC ROV.

## Summary and Recommendation

The Communications Users Tax ordinance recommended by staff may reduce the existing tax rate. It would also update the tax to cover modern communications technologies and billing practices. This ordinance would:

- Reduce the tax rate on communications users from 6% to 5.5%; or leave it the same.
- Continue the existing tax on telephone communications, including landline and wireless communications;
- Continue existing tax exemptions;
- Apply the tax equally to all communications technologies, including new and emerging technologies; and
- Comply with the federal law that currently prohibits taxing Internet access.

### Proposed Dates of Community Meetings

It is proposed that two community meetings be held to provide information to the public regarding the proposed Measure to be placed on the November 2012 ballot.

- Tuesday, June 12, 2012 at 6:00 p.m. at the Council Chambers
- Monday, June 18, 2012 at 6:00 p.m. prior to the City Council meeting starting at 7:00 p.m.

## Fiscal Impact

### Telephone Users Tax

The City's TUT revenue is General Fund revenue and is used to fund crucial City services, such as police, street and park maintenance, and recreation programs. Annual TUT revenue averages approximately \$650,000. The negative impacts of lost revenue of this magnitude would be significant.

### Election Costs

Election for Council Seats – Approximately \$11,000 (already budgeted)  
 Election with a Ballot Measure – Approximately an additional \$7,500 (not budgeted) for a grand total of \$18,500.

Submitted and Approved By:



---

Angie Avery  
City Manager

Attachments:

- 1) *May 21, 2012 Staff Report entitled Consideration of a Reduction of Tax Rate and Modernization of the Current Telephone Users Tax*
- 2) *TUT Survey*
- 3) *TUT Revenue Comparison*

# City of Los Alamitos

## Agenda Report Discussion Items

May 21, 2012  
Item No: 9A

To: Mayor Troy D. Edgar and Members of the City Council

From: Angie Avery, City Manager

Subject: Consideration of a Reduction of Tax Rate and Modernization of the Current Telephone Users Tax

COPY

**Summary:** The City currently receives approximately \$650,000 yearly from the tax on telephone users (TUT). The City's tax is outdated because of new communications technologies and billing practices. As a result, people who use older technologies are paying the tax, while those who use newer, advanced technologies may not get taxed. In addition, similar, outdated taxes in other cities have been the subject of lawsuits. In the event of a successful challenge to the City's tax, the City could lose some or all of the \$650,000 in revenue from the TUT. These revenues pay for numerous City services including police, public works and parks and recreation.

The remedy for the outdated tax is to modernize the existing ordinance to amend the Municipal Code Section 3.20.070 (Telephone User Tax). A modernized ordinance would require annual reporting and public disclosure; modernize the language to treat taxpayers equally regardless of technology used; and use the proceeds to fund general municipal services, such as police, public works and parks and recreation. The ordinance could also change the rate of the City's tax on communications users (e.g., lowering it from 6% to 5.5%) or leave it the same.

**Recommendation:** Staff seeks authority to move ahead with the planning and execution of two Community Workshops in June to educate the community, answer questions and determine placement of the measure on the ballot. Staff views this as an issue brought forward to protect General Fund revenue and one that requires broad community support to succeed.

## Background and Discussion

A utility users tax or UUT is a tax levied on each user of a utility (i.e. telephone, electricity, gas, water, or video services) within the City's boundaries. The City's current UUT rate is 6% of applicable charges and has been in force since 1991. The telephone users tax (TUT) is one part of the UUT. It is the part that applies to telephone services. Of the UUT, only the telephone portion is out of date. The tax is imposed upon the user of the telephone services, but is collected by the supplier of those services. For example, residents who have telephone lines in their homes are obligated to pay the tax, but it is their telephone carrier who collects the tax. Telephone carriers collect the tax by including the TUT in the charges on their customers' telephone bills. The

carriers then pay the tax to the city on a monthly basis by submitting a check and a summary tax remittance form.

The total TUT revenue collected from all telephone service providers for the past few fiscal years is:

2005-06	\$ 557,153
2006-07	\$ 576,592
2007-08	\$ 594,777
2008-09	\$ 657,924
2009-10	\$ 708,354
2010-11	\$ 639,599

COPY

The TUT revenue is thus one of the largest recurring revenue sources to the City. By contrast, the revenue from UUT on other utilities is:

	Electricity	Gas	Water
2005-06	\$ 1,016,206	235,629	144,324
2006-07	\$ 1,226,540	217,187	144,999
2007-08	\$ 1,196,837	220,487	166,215
2008-09	\$ 1,194,395	201,275	178,877
2009-10	\$ 1,111,922	179,708	178,067
2010-11	\$ 1,112,134	179,998	200,280

Water rates are increasing which translates into both higher taxes received by the City, but also greater expenditures. Projections for FY 2012-13 indicate that the higher revenue through taxes will be very small compared to the TUT and will be completely offset by higher water rate expenditures.

The Utility Users Tax revenue represents 19% of the City's total revenue and is the largest source of revenue over which the City exercises control. Only property taxes at just over \$3 million and sales tax at \$2.8 million are larger sources of revenue. TUT revenue represents the budget equivalent of six police officers or nine civilian employees (one-sixth of the City's workforce).

Why Does the Telephone Users Tax (TUT) Need to be Modernized?

Since the inception of the TUT, communication technology has changed dramatically with the invention of cell phones, internet communications, satellite communication, and other communication media, as well as the advent of fixed fee calling plans and other marketing trends tending to simplify billing and reduce costs. These changes have led to legal and practical challenges to TUT's throughout the state.

Fortunately, most of the challenges to date have been raised against larger cities, but recently, smaller cities have begun to receive challenges as well. To protect against future lawsuits or the collateral effect of possible adverse rulings in existing cases, many smaller cities have updated and modernized their TUT ordinances.

It is likely that older technologies (e.g., landlines) will continue to be replaced by newer technologies. Indeed, some predict that web-based communications will take over a significant portion of the communications market in the next decade, perhaps even overtaking cellular telephones in market share. Our existing ordinance might be challenged if we continue to apply it to new technologies not specifically referenced or incorporated into the older language of the existing TUT.

Failure to tax newer technologies would not only result in a substantial decline in revenue, but would also create an inequitable situation where those who can afford newer technologies are not taxed, while those paying to obtain the same type of services through older technologies continue to be taxed.

These issues would be eliminated by voter approval of a newer, clarified Communications Users Tax (CUT) ordinance.

#### The Option to Present a Modernized Ordinance to the Voters

The current trend in communication technology has been away from the public switched network towards technologies that operate on different media. Submitting an ordinance for voter approval will allow the public to confirm that it wishes to continue the existing revenue stream, modernize the language, include developing communications technology within the tax base and treat all communication services the same, regardless which medium is being used to deliver the communication services. The definition of "communications services" subject to the tax would be defined broadly and in a technology-neutral manner, so as to include communications services, regardless of the means of transmission, conveyance, or routing of information or signals to a point, or between or among points, whatever the technology or protocol used, whether such content is voice, data, audio, video, or any other information or signals. The proposed CUT would treat all technologies the same, including traditional telephone, wireless, VoIP (voice over Internet) and broadband telephony, 800 and 900 service, paging, and private communication services (e.g., T-1 networks).

The option to present a modernized TUT ordinance to the voters is available under current law, but there is a possibility that it may not be available in the future. Each year for the past several years, a bill has been introduced in Congress to try to limit that ability of local jurisdictions to adopt taxes on wireless telephone services. Some versions of the bill have exceptions for voter-approved ordinances, while others do not. To date, the bill has not passed, but it is again pending.

#### Requires Majority Approval of the Voters

Modernization of the City's TUT ordinance is governed by Proposition 218 and would require majority approval (50% + 1) by the voters. It should be noted that, if voters do not pass a modernized TUT measure, the existing TUT would remain in place and be preserved. However, if voters do not pass a modernized measure, there is now a significant risk of legal challenges to the existing ordinance and a potential loss of TUT revenues due to changing technology and market forces. If a measure is approved by the voters, it would replace and supersede the existing TUT.

Absent a fiscal emergency, Proposition 218 also requires voter approval of a new tax or a tax increase at an election that is consolidated with a regularly scheduled general election for members of the governing body of the local government (i.e., the City Council). The next such election is in November, 2012.

COPY

Timeline for Ballot Measure

June 2012	City to host at least two Community Workshops to educate the community, answer questions and determine placement of the measure on the ballot.
Early July, 2012	Assess and determine if there is enough community support to go forward with the ballot measure. If support is determined, City staff cannot conduct the campaign and City resources cannot be used to further the campaign.
Late July, 2012	Final determination made for Reduction of Tax Rate and Modernization of Telephone Users Tax to go on the November 2012 ballot

**Summary and Recommendation**

The Communications Users Tax ordinance recommended by staff may reduce the existing tax rate. It would also update the tax to cover modern communications technologies and billing practices. This ordinance would:

- Reduce the tax rate on communications users from 6% to 5.5%; or leave it the same.
- Continue the existing tax on telephone communications, including landline and wireless communications;
- Continue existing tax exemptions;
- Apply the tax equally to all communications technologies, including new and emerging technologies; and
- Comply with the federal law that currently prohibits taxing Internet access.

**Fiscal Impact**

The City's TUT revenue is General Fund revenue and is used to fund crucial City services, such as police, street and park maintenance, and recreation programs. TUT revenue accounts for nearly \$650,000 in General Fund revenues annually. The negative impacts of lost revenue of this magnitude would be significant.

Submitted and Approved By:

\_\_\_\_\_  
 Angie Avery  
 City Manager

Attachments: None

TUT Survey

Organization	Contact Information	Year	Tax Measure Outcome	Rate Terms	TUT Before and After	Did they use a consultant?	Community Outreach	Council Support	Enforcement Efforts (Audit, Letters, ...)	Impact on Revenues	What were the changes in the tax base?	Exemptions - Senior? Low Income? Low Income	Feedback - after it went into effect	Notes
City of Bellflower	Tae G. Rhee (562) 804-1424 Ext. 2216	March 2009	81.6% Yes	General	5% - 5%	Low Edwards Fairbank Mossland -polling	Not Much	Unanimous	Letters to Utility Co's	Decreasing	Broaden base to include new technology remove reference to federal law	Low Income	No	People using cheaper services/ prepaid services, Recession impacts
City of Benicia	Abby Urrutia (707) 746-4225	November 2007	70.7% Yes	General	4% - 3.5%	Muni Services	Informational sessions	Unanimous	No	Increase			No	
City of Buena Ventura (Ventura)	Jahne Dunn (805) 654-7812	November 2007	63.5% Yes	General	5% - 4.5%	Yes	Community meetings	Yes - did not recall if it was unanimous	Use Muni Services for monitoring	Increase	Broaden the base to include new technology	No	No problems	
City of Cupertino	Carol Atwood (408) 777-3200	November 2009	75.5% Yes	Sunset in 2030	2.4% - 2.4%			Unanimous						
City of El Monte	Rich Pedilla (626) 580-2010	November 2007	62.8% Yes	General	7% - 6.5%	Muni Services Don Maynor	Town hall meetings	Unanimous	No	Remained level	Broaden base	Low Income	No	
City of Gardena	Alice Civa (310) 217-9518	March 2009	83.5% Yes	General Only 4% was collected prior to measure	5% - 5%	No	Council / Flyers		Mass Mailing part of annual city audit	Slight increase in rev. Although allowable tax was 5% only 4% was collected prior to ballot.	Updated language per city attorney	Low Income / Seniors Exemption age for seniors was reduced to 60+ or Receiving SS Benefits	No	Tax amount collected increased by 1%, but more exemptions were approved so the end result was a slight increase in revenues.
City of Gilroy	Irma Navarro (408) 846-0394	November 2007	64.1% Yes	General	5% to 4.5%	Muni Services	Not a lot of outreach	3 to 2	Mass Mailing	No Change	Broaden the base	No	Most people were supportive	
City of Glendale	Armen Harkalyan (818) 548-2085	April 2009	67.2% Yes	General	7% - 6.5%									
City of Hermosa Beach	Vicky Copeland (310) 318-0225	November 2007	72.0% Yes	General	6% - 5.5%			Unanimous						
City of Los Altos	Yuki Aral (650) 947-2615	November 2007	84.3% Yes	General	3.5% - 3.2%	Don Maynor (650) 327-2894		Yes - did not recall if it was unanimous	Mass Mailing	Remained level	Modernize to capture new technology	Senior	No	
City of Pico Rivera	Gloria (562) 801-4321	November 2009	67.3% Yes	General	5% to 4.5%	No	Surveys	Unanimous	Use Muni Services for monitoring	Decreased a little	Broaden the base	Low Income / Seniors / Disabled	No	
City of Redondo Beach	Frank Roland (310) 318-0683	March 2009	74.8% Yes	General	4.75% - 4.75%	Yes	Survey	Unanimous		Decline				
City of Rialto	(909) 820-2544	November 2007	63.6% Yes	General	8% - 8%							Low Income / Seniors		
City of Richmond	James Goins (510) 620-6740	February 2008	73.9% Yes	General	10% - 9.5%			Unanimous						
City of San Jose	Margaret McCahn (408) 535-8132	November 2008	79.4% Yes	General	5% - 4.5%	Fairbanks Mossland	Polling - PIO...		Mass Mailing to Util Co's	Increased 1st year decreased 2nd yr then stabilized	Broadened Base to include VOIP Remove reference to federal law	Cap on tax for some larger companies	Some companies complained about impacts on their business	
City of Santa Barbara	Jill Taura (805) 564-5336	November 2008	70.6% Yes	General	6% - 5.75%	Muni Services Don Maynor (650) 327 2894	Lots of outreach and community involvement	Unanimous	Mass Mailing - Util Co's Muni Services - Legal/ Audit	Increase	Broaden base to include new technology	Low Income/Senior		Revenue increase attributed to increase in cell phone users
City of Stockton	Susan Mayer (209) 937-8460	November 2008	61.1% Yes	General	6% - 6%									
City of Torrance	Scott McDonough (310) 618-5850	June 2008	61.2% Yes	General	6.5% - 6.5%	Catherine Lew Lew Edwards Group (510) 594 0224	No	Unanimous (1 Member Absent)	Mass Mailing	Decline	Broaden base to include new technology Remove reference to federal law	Low Income/Seniors/ Disabled - meeting an income requirement	Had a few complaints about being taxed in general	Revenues have declined over the past few years

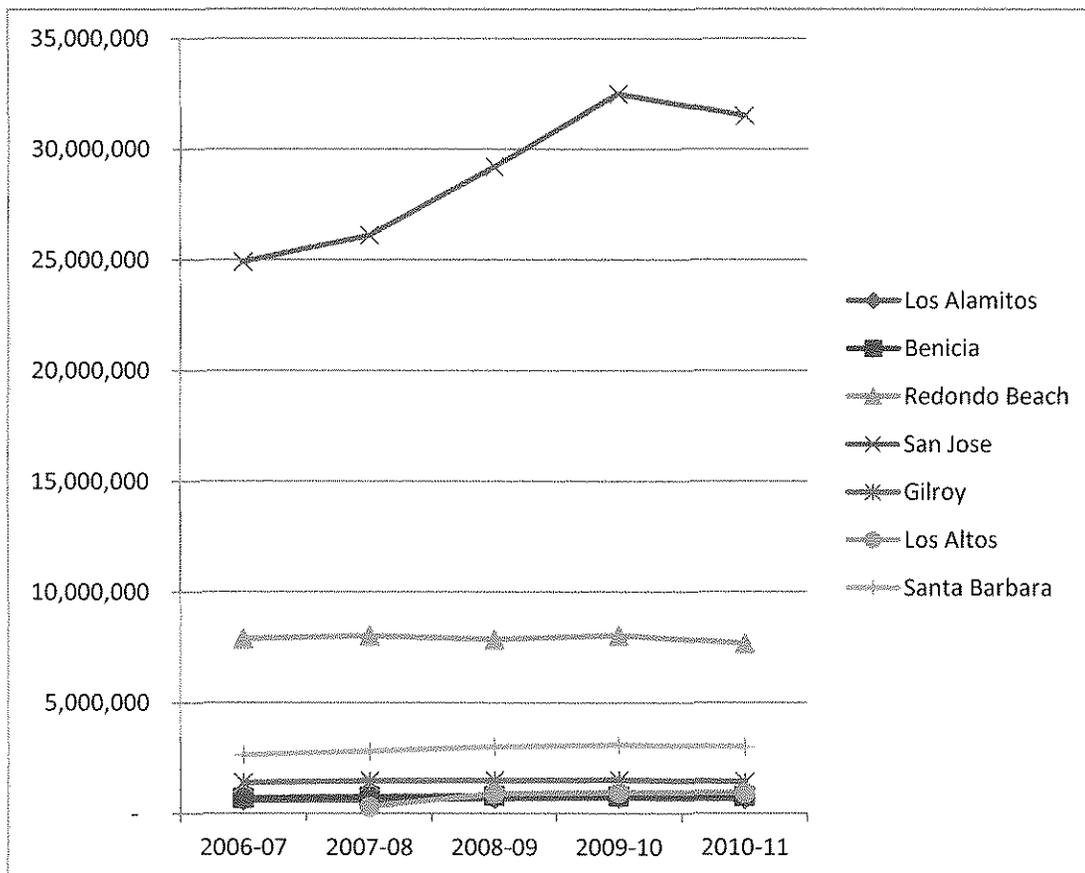
## TUT Revenue Chart

Of the cities surveyed only the following had specific TUT revenue information readily available. Some cities utilized a consultant for their UUT oversight, and other cities did not account for the TUT separately, their TUT revenues are co-mingled with all the other UUT revenues the City receives.

City of...	2006-07	2007-08	2008-09	2009-10	2010-11
Benicia	693,170	745,682	798,035	795,835	774,037
Gilroy	1,383,427	1,464,230	1,482,743	1,503,246	1,417,676
Los Alamitos	576,592	594,777	657,924	708,354	639,599
* Los Altos		300,000	900,000	950,000	930,000
Redondo Beach	7,878,429	8,018,564	7,848,157	8,043,207	7,667,130
San Jose	24,900,000	26,100,000	29,200,000	32,500,000	31,500,000
Santa Barbara	2,629,637	2,796,228	3,003,456	3,094,352	3,005,100

### Year of TUT Ballot Measure

- \* Los Altos - Prior to Ballot Measure TUT was not accounted for separately - FY 2007-08 is the first year of implementation and the figure represents 4 months of revenue collections or 1/3 of the year after the new rate went into effect.



From the data collected, the impact of the ballot measure on each cities TUT revenues is inconclusive. It appears that changes in TUT revenues relate more to economic trends than to the passing of the ballot measure. All cities appeared to have increases in TUT revenues through FY 2009-10 and declines in FY 2010-11 regardless of when the TUT ballot measure went into effect.