



# HOSPITALITY AMBASSADOR PROGRAM

## REQUEST FOR PROPOSALS (RFP)

Document Date

11/10/2022

RFP Opening Date

11/21/2022

RFP Closing Date (due date for proposals)

01/13/2023 @ 5:00PM (Los Angeles)

PLEASE READ THIS DOCUMENT CLOSELY AND NOTE THAT A SITE VISIT IS ENCOURAGED BEFORE YOU SUBMIT YOUR BID. (See page 8 for deadlines, and addresses)

Uptown Whittier Improvement Association

13305 Penn St. #200

Whittier, CA 90602

**Statement of Purpose**

By and through this public Request for Proposals (RFP), the Uptown Whittier Improvement Association (UWIA) a 501(c) not-for-profit corporation, seeks bids for the following Project: “UWIA Hospitality Ambassador Program.

**Background Information**

The Uptown Whittier Improvement Association (UWIA) was created in the Fall of 2017 as a non-profit 501(c)(3) corporation. Voted on and passed by an overwhelming majority of Uptown Whittier property owners, the UWIA is a community benefit district run primarily by a board of property owners and business owners. The board is responsible for making decisions in the areas of public safety, beautification, economic development, maintenance and promotions—providing residents and visitors with a clean and safe community to enjoy.

The UWIA plans to elevate and revitalize the Uptown Whittier district by keeping its sidewalks clean, establishing a cohesive identity, maintaining a safe neighborhood, beautifying the community and promoting Uptown Whittier as a top regional destination.

The Hospitality Ambassadors Program will be an element of The UWIA’s commitment to elevate and revitalize Uptown Whittier supporting the goal of beautifying the community, maintaining a safe neighborhood, and promoting Uptown Whittier’s Restaurants, Shops, and Services in the region.

**UWIA Mission Statement**

The mission of the UWIA is to improve the district through various service areas including Sidewalk Operations, District Identity and Land Use.

## **Ambassador Program Overview**

The UWIA Hospitality Ambassador Program will use trained contract staff throughout Uptown Whittier as assigned by the UWIA Board to provide a consistent, welcoming atmosphere for visitors, neighborhood residents, workers, and storefront businesses. UWIA Hospitality Ambassadors will be high-visibility representatives of Uptown Whittier primarily providing services such as: general hospitality/wayfinding, addressing safety issues as appropriate, addressing negative conditions of public space, and communicating to appropriate public services as needed.

The UWIA Hospitality Ambassadors Program focuses on meeting the needs of stakeholders within the established Uptown Whittier District. Ambassadors will be on foot and/or non-motorized transportation such as bicycles, where allowed, and wear distinctive, approved uniforms that maximize their presence and visibility, and complements overall Uptown Whittier branding efforts.

The primary role of the Hospitality Ambassadors is to build relationships, offer hospitality services such as giving directions, provide pedestrian escorts, suggest restaurant and retail information, and offer any other customer-oriented support that will foster stronger relationships between stakeholders and the Whittier area. They will serve as liaisons between Whittier's stakeholders, while providing traditional hospitality services such as advising visitors, workers and residents about Whittier, such as events, retail, and restaurant venues and parking options. The Hospitality Ambassadors should be regarded as a friendly, knowledgeable, outgoing extension of the UWIA and the Whittier community.

Additionally, the Hospitality Ambassadors should report maintenance issues in Whittier including burned-out streetlights, damaged public property, damage to the private property of UWIA members, and trip hazards on sidewalks. If the issue is minor, Ambassadors should immediately address it, such as picking up trash on the sidewalk and placing it in a receptacle, or removing a flier or sticker taped to a light pole. They should strive to be model citizens, helping to care for, respect and maintain Uptown Whittier.

Lastly, the Hospitality Ambassadors will observe and report incidents related to safety concerns, and public order issues to the appropriate authorities.

## **Ambassador Program Description**

- The Hospitality Ambassadors will be present in the Uptown Whittier area on a daily schedule to engage with stakeholders, provide the public with information and offer other assistance. The Hospitality Ambassadors will be trained and knowledgeable about points of interest in Whittier, upcoming special events, and services located in and around the Uptown Whittier area.
- The Hospitality Ambassadors will visit local businesses and community organizations to identify any needs or concerns.
- The Hospitality Ambassadors are to report maintenance issues, pick up loose trash that can be placed in a proper receptacle, and remove graffiti, stickers, and handbills that can be disposed of immediately.
- The Hospitality Ambassadors will be trained in customer service and public relations in a manner that promotes the image of Uptown Whittier and the UWIA

- The Hospitality Ambassador Program should incorporate relevant Business Improvement District best practices and be equipped with electronic device(s) to both communicate with appropriate agencies and document maintenance issues and all interactions with the public. UWIA will not issue the devices; the Hospitality Ambassadors will be issued the devices by the contractor.
- The Hospitality Ambassadors are to serve as a presence to enhance the image of Whittier and provide additional information to law enforcement, and other partner agencies. Hospitality Ambassadors are not to be or function as deputized law enforcement officers, nor will they carry weapons or any kind. Any and all training with law enforcement will occur through the partnership between the Whittier Police Department and the UWIA.
- The Hospitality Ambassadors will be outfitted with uniforms approved by the UWIA.
- The Hospitality Ambassadors will provide responsive, “on-demand” services during the scheduled hours of service to respond to the needs of stakeholders.
- The Hospitality Ambassador contractor will utilize and maintain an electronic online data and work order system capable of generating reports and analyzing data statistically, spatially, and in real time.
- The Hospitality Ambassadors will exercise independent good judgment with minimal supervision.
- The Hospitality Ambassadors will identify and resolve incidents within their ability and purview.
- The Hospitality Ambassadors will assist UWIA staff in other duties as assigned.

### **Contractor’s Responsibilities**

- Staff, supervise, train and administer the Ambassador Program for the UWIA.
- Provide a Program Manager that exudes customer service, competence and professionalism.
- Uphold rigorous hiring standards that include appropriate background checks, training and development
- Execute the Program Description to meet or exceed contract requirements.
- Carry out a schedule that can fluctuate daily, seasonally, and as specified by UWIA, to accommodate special events or other conditions such as seasonal variations.
- Develop and provide a multi-dimensional and on-going training schedule for The Hospitality Ambassador Program that includes both in-class and in-field training.
- Provide and maintain uniforms to the Ambassadors from the source agreed to by the UWIA. All Hospitality Ambassadors will be distinctly identified (uniformed) as working on behalf of UWIA. Additionally, the Hospitality Ambassadors shall have a uniform design that is subtly yet distinctly different from those of the BID Patrol Safety Ambassadors and the Cleaning Ambassadors, but a part of a family of uniforms that collectively represent the operational services provided by the UWIA.
- Provide appropriate communication devices and all related equipment to Ambassadors.
- Provide services in a professional manner, to the satisfaction of the UWIA.
- Use an electronic reporting system to document all Ambassador reporting and interactions and provide presentation-ready reports and charts as requested by the UWIA.
- Participate in problem/issue solving with UWIA and other partners in improving quality of life needs in the public realm to the UWIA or the City of Whittier, where appropriate.

- Interact with the appropriate UWIA staff in reporting maintenance and quality of life issues.

## **UWIA Responsibilities**

- Oversee Contractor services and contract administration.
- Provide assistance and direction to Contractor in the training of The Hospitality Ambassadors.
- Coordinate with the City of Whittier and other entities.
- Pay for the services provided by the Contractor according to contractual terms.
- Develop, communicate and assess key performance indicators for associated RFPs and performance evaluation.

## **Personnel**

All personnel used by the Contractor under this program will be employees of the Contractor. Contractor shall pay all salaries, insurance and expenses, all federal social security taxes, federal and state unemployment taxes, and all other taxes relating to the employees. Contractor must comply with legal requirements including the Federal Fair Labor Standards Act, Equal Opportunity Employment, and the Americans with Disabilities Act. UWIA has the right to reject any Contractor employees or request immediate replacement without cause.

The Contractor, the Contractor's employees, and its subcontractors, shall be competent and careful workers skilled in their respective trades. In the submission packet, the Contractor must address how wages will escalate across the duration of the contract to keep pace in a competitive labor market and encourage employee retention. Subcontractors shall be subject to prior approval by the UWIA. The Contractor shall not knowingly employ nor contract with any person who engages in misconduct or is incompetent or negligent in due and proper performance of his or her duties and the Contractor must warrant the fitness of all employees. All Hospitality Ambassadors must pass a thorough background check. UWIA shall have the right to require the Contractor remove any employee who displays misconduct toward the public or public property or is in any way discourteous or inappropriate to the public. UWIA shall also have the right to review employment files for all Contractor employees working in The Hospitality Ambassador Program.

## **Training**

Training will be important to the success of the Hospitality Ambassador Program. Training will include extensive initial training as well as ongoing training programs to refresh basic knowledge. Initial training will consist of classroom and field instruction prior to The Hospitality Ambassadors fulfilling their assigned roles. Contractor shall provide for the initial training and appropriate in-service training. Contractor shall submit a detailed training plan/program and schedule with this proposal. The UWIA will coordinate with all City of Whittier departments involved in The Hospitality Ambassador training. Detailed training practices and manuals must be made available to the UWIA prior to training. If necessary, for the Hospitality Ambassadors to be licensed by the State of California, all state licensure costs will be at the expense of the Contractor.

Training provided by the Contractor at the Contractor's expense shall include, but may not be limited to:

- Philosophy and mission of the UWIA and The Hospitality Ambassador Program
- Policies regarding personal conduct, attitude, etiquette
- Public relations and customer service

- Employee Code of Conduct/Rules and Regulations
- Scheduling, assignments, procedures
- Uniform maintenance and appearance
- Equipment use and maintenance
- Radio/Communications device use and etiquette (as/if required)
- Daily procedures
- Special Events procedures
- Data collection, report writing, emergency reporting procedures
- Program activity reporting
- Personal safety policies and procedures; emergency procedures
- Legal responsibilities
- Basic automotive troubleshooting and assistance (i.e. jumping car batteries, replacing a tire)
- Street Smarts; security awareness; dealing with conflict; terrorism; gang awareness
- Chain of command
- CPR/First Aid
- Classroom and field training: area geography, points of interest, businesses, and services
- History of Whittier and the UWIA
- Area attractions
- Dealing with emotional behavior, mentally ill, homeless, aggressive behavior, etc.
- Community sensitivity/cultural diversity

### **Hours of Operation**

UWIA proposes that the Contractor will provide Hospitality Ambassadors according to needs of the UWIA and the District within the Uptown Whittier Area. Final schedules and staffing will be determined by UWIA and the Contractor and may be modified based on seasonal demand or special events. A schedule of holidays observed will be agreed upon in advance, and employees whose regular work schedule includes an observed holiday will be compensated with holiday pay. Any proposal should include a proposed holiday schedule. Any finalized schedule must be approved and accepted by the Board of the UWIA.

Any schedules or services to be performed outside of the normal scope of the program must be approved in advance by UWIA. In those cases, Contractor and UWIA will agree on a fee or hourly rate for providing services for special situations or events not included in the regular weekly schedule. Individuals employed as Hospitality Ambassadors shall not perform services for private individuals, other organizations, or special events within the UWIA boundaries without the prior approval of the UWIA.

### **Equipment**

It is suggested that the following equipment will be necessary to perform the program services:

- Communication Devices - Each Ambassador will be equipped with a communications device(s) that allows them to communicate with their supervisors and other ambassadors, including those serving on the Safety / Clean Ambassador teams. Ambassadors must also be able to access information from a handheld device and be able to submit activity logs and incident reports for data collection purposes on a daily basis.
- Ambassadors must be able to report maintenance needs via a handheld system that is compatible with software that is accessible by the Contractor and UWIA.
- The Contractor will purchase any/all communication equipment for use by the Ambassadors.

Contractor shall provide regular maintenance for the communications equipment. Contractor shall be responsible for damage to communications equipment above normal wear and tear and shall replace, at Contractor's expense, any equipment lost, stolen or destroyed. All communications devices shall be maintained in good working order throughout the Contract period. Problems with function of or damage to communication equipment must be reported to the Contractor immediately.

- All information housed by the Contractor belongs to the UWIA and must be returned to UWIA at its request, an obligation that shall survive contract termination.
- Other Equipment - Other equipment necessary to perform the above-described scope of services will be provided by the Contractor and should be detailed in response to this RFP. UWIA will have to approve any and all equipment proposed for use by the Contractor. UWIA shall have the option to display its preferred logo and / or the logos of supporting sponsors on all equipment, including uniforms, used by the Contractor to provide these services. All equipment purchased with UWIA funds under this contract shall belong to UWIA and shall at UWIA's option revert to UWIA at the termination of this contract.

### **Uniforms**

All Hospitality Ambassadors and their equipment will be distinctly identified (uniformed) as working on behalf of UWIA. UWIA will specify the uniform elements and the Contractor will secure them through a Contractor/source agreed to by UWIA. The uniforms that the Contractor selects will be determined in consultation with the UWIA. The Contractor's employees providing services for UWIA will be required to wear uniforms while on duty and the uniform will not be used at any other time, except for the commute to and from work. Contractor will maintain these uniforms in a clean and acceptable condition at all times. The Hospitality Ambassadors must not wear dirty or disheveled uniforms while on duty.

The Contractor will also supply certain other uniform elements, such as uniform caps or hats, fanny packs, rain ponchos, rain suits, lightweight jackets and/or heavy jackets. Contractor will maintain these uniform elements in a clean and acceptable condition at all times. The Hospitality Ambassadors shall not wear uniform items or items with the UWIA logo for purposes other than assigned duties or during scheduled working hours.

### **Program Manager of Ambassador Services**

The Contractor will provide a full time Program Manager of Ambassador Services who will oversee the program and deployment. This employee must have clearly documented skills and experience necessary to excel in this position. The Program Manager should have a proven track record of exemplary customer service and leadership. Responsibilities include:

- Raising awareness of services by meeting with businesses and residents
- Using flexibility and creativity in deployment to meet changing needs
- Meetings, performance reports, and evaluations with designated UWIA staff
- Clear understanding and knowledge of all computer and communication systems used by staff
- Reviewing raw data and providing the UWIA with a comprehensive report on all activities

### **Insurance**

During the life of the contract between UWIA and the Contractor, the Contractor shall provide, pay for, and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work described in this RFP, by the contractor, his

agents, representatives, employees, or subcontractors. Specific types are described below. Contractor's insurance shall be primary in all occurrences associated with the services outlined in this RFP. The cost of such insurance shall be included in the Contractor's bid, covering, at a minimum the following categories:

- Commercial General Liability Insurance shall include Premise and Operations, Personal and Advertising Injury, Contractual Liability, Independent Contractors, Broad Form Property Damage including Completed Operations and Products, and Completed Operations Liability Coverage. Such policy insurance shall have limits of liability not less than \$2,000,000 each occurrence; medical expenses \$5,000 (any one person); \$1,000,000 personal and adv. injury, and general aggregate is \$3,000,000. Liability Insurance Certificate shall include the save harmless clause.
- Automobile Bodily Insurance and Property Damage Liability Insurance shall be written for not less than \$1,000,000 combined single limit. Limits of liability can be met by a Combined Primary Liability and Excess and/or Umbrella Liability Insurance policy of \$5,000,000.
- Workers' Compensation and Employers' Liability Insurance shall be provided for all employees engaged in the work under this request, in accordance with the laws of the State of California. The amount of the employers' liability insurance shall not be less than: \$1,000,000 each accident, each employee.

All insurance coverage shall be provided by responsible agencies licensed to do business in California. The insurance coverage and dollar limits required must be evidenced on properly executed Certificates of Insurance. Renewal certificates shall be provided no less than thirty working days prior to the expiration date of current coverage.

The Contractor must provide a copy of its Certificate of Liability Insurance to UWIA each quarter. Documentation will show that UWIA, its officers, directors, employees, agents, and subcontractors, and the City of Whittier, its officials, employees, and agents are listed as additionally insured on the policy. Each policy and Certificate of insurance shall contain an endorsement of the UWIA and the City of Whittier as additionally insured. Additional provisions, as necessary, will be made available prior to and integrated into the final contract.

### **Submitting Your Proposal**

Submit five (5) complete copies of the proposal on/before the due date/time to:

- Brent Haskell or Designee
- By email to [brent@gmpropertiesinc.com](mailto:brent@gmpropertiesinc.com) or US Mailing to UWIA % Brent Haskell or Designee @ 13305 Penn St #200, Whittier, CA 90602 **(01/13/2023 @ 5:00PM, Los Angeles Time)**
- Brent Haskell or Designee can be contacted via phone at (562)-762-3112
- Proposals will be accepted via email or hardcopy via US Mail
- Period of acceptance of proposals shall be **11/21/2022 and end 01/13/2023 @ 5:00PM, Los Angeles Time (no proposals shall be accepted after the close date/time).**
- Received means via email by/before the deadline indicated or via US Mail received by UWIA % GM Properties by/before the deadline (note: postmarks will not qualify as "received by" for the purposes of this RFP).

## **General Submittal Requirements (five complete sets required)**

### *GENERAL INFORMATION*

- Contractor name and mailing address, phone, fax, and website
- Contact name and contact's phone and email
- State if business is local, national, international and indicate the business legal status (corporation, partnership, etc.)
- Name of parent company (if any) or subsidiary
- Number of years in operation, date and location of incorporation
- Location and address of home office and number of professional staff employees at the office
- Experience in providing ambassador services to other private and/or public entities, including the number & a listing of business improvement district accounts
- Business unit and individuals by name to be responsible for providing/managing contracting services, including resumes of individuals. Identify frequency that Senior Management from the corporate headquarters will make announced and unannounced on-site visits and include a description of the evaluation criteria to be used
- Statement of ability to provide requested insurance coverage
- Any exceptions to the contract terms proposed herein

### *NARRATIVE DESCRIPTION*

- Include scope of services to be provided, roles and relationship of contractor and UWIA in program development. Explain how the Hospitality Ambassadors will be instructed to perform their jobs and handle a variety of situations; how they will communicate with each other, the police, and others; and how they will report on their activities.
- Clearly define and demonstrate how the services to be provided will be accomplished. Please include as much detail as applicable and specific examples of how your company has planned, deployed, executed, evaluated, and refined services.
- Please provide your expectations of UWIA's involvement in the oversight of the contract and program management.

### *RECRUITMENT*

- Provide a description of personnel policies and practices, including equipment requirements, protocols for pre-employment and hiring process, drug tests, training, background screening, and selection procedures.
- Explain how staff will be recruited and what criteria will be used to recruit staff.
- Describe any role, if any, UWIA will play in the initial and ongoing recruitment activities.

### *TRAINING*

- Provide details of proposed training (both initial and ongoing), including topics, instructors, schedule, etc.

### *PERFORMANCE MANAGEMENT AND EVALUATION*

- Provide samples of Contractor's forms and procedures for investigating and reporting incidents.
- Explain how you propose to be held accountable by UWIA and how performance of the The Hospitality Ambassador program will be measured and demonstrated.

### *EQUIPMENT*

- Contractors are encouraged to include within their proposals a listing of the proposed equipment they will use to provide the required services.

### *BUDGET AND DEPLOYMENT*

- An estimated budget required to provide services for a contract period determined by the Board (usually one year, but may be multiple years at the discretion of the Board).
- While thinking holistically about the UWIA program across its deployment objectives, provide enough itemized detail on budget and deployment including equipment and supplies costs, training costs, uniform costs, overhead, management fees, Contractor profits, and any additional fees. Please submit a proposed management structure and clearly distinguish expenses related to program management from those for line-level ambassadors.
- Please clearly demonstrate how the Contractor would assign, schedule and dispatch staff.
- Provide at least three reference names and contract information for similar contracts with other organizations.

### *COMPANY STABILITY AND FINANCIAL SOUNDNESS*

- Please disclose whether the contractor has filed for bankruptcy and whether it has been, or currently is, in litigation. If so, please outline the details of the case.

### *TIMELINE*

- Guided by the needs provided by the UWIA, a schedule shall be provided that demonstrates how the vendor will deploy their staff to meet the needs.

Proposals must clearly define and demonstrate how the services to be provided will be accomplished. The quote should be inclusive. If your price excludes certain fees or charges, you must provide a detailed list of excluded fees with a complete explanation of the nature of those fees. If the execution of work to be performed by your company requires the hiring of sub-contractors, you must clearly state this in your proposal. Sub-contractors must be identified and the work that will be performed must be defined. UWIA will not refuse a proposal based upon the use of sub-contractors; however, we retain the right to refuse subcontractors you selected.

# **Sample Contract**

## INTERIM AGREEMENT FOR AMBASSADOR SERVICES

THIS AGREEMENT FOR AMBASSADOR SERVICES (herein "Agreement"), is made and entered into this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and effective \_\_\_\_\_, \_\_\_\_\_, by and between Uptown Whittier Improvement Association, a California non-profit public benefit corporation, (herein "UWIA") and \_\_\_\_\_, a California Corporation, (herein "CONTRACTOR"). The parties hereto agree as follows:

### WITNESSETH:

- A. UWIA requires Ambassador Services, as set forth more fully in this Agreement.
- B. CONTRACTOR represents to UWIA that CONTRACTOR is qualified to perform said work and has submitted a proposal to UWIA for the same.
- C. UWIA desires to have CONTRACTOR perform said services on the terms and conditions set forth herein.
- D. No official or employee of UWIA has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, UWIA and CONTRACTOR hereby agree as follows:

### 1. DEFINITIONS

- 1.1 Definitions. As used in this Agreement, the following definitions shall be applicable:
  - (a) CONTRACTOR. CONTRACTOR shall mean XXXXXX, Inc., California corporation.
  - (b) UWIA. UWIA shall mean the Uptown Whittier Improvement Association, a non-profit public benefit corporation, based in the City of Whittier.
  - (c) Board. Board shall mean the Board of Directors of the UWIA
  - (d) Contract Officer shall mean the person designated by the UWIA and shall have the duties set forth in Section 5.2.
  - (e) Services. Services shall mean the services to be performed by the CONTRACTOR pursuant to this Agreement.
  - (f) Satisfactory. Satisfactory shall mean satisfactory to the UWIA Contract Officer or his/her designee.

### 2. SERVICES OF CONTRACTOR

2.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the CONTRACTOR shall provide those services specified in the "Scope of Services" attached hereto as

Exhibit “A” and incorporated herein by this reference, which services may be referred to herein as the “services” or “work” hereunder. As a material inducement to UWIA entering into this Agreement, CONTRACTOR represents and warrants that CONTRACTOR is a provider of first class work and services and CONTRACTOR is experienced in performing the work and services contemplated herein and, in light of such status and experience, CONTRACTOR covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended.

2.2 Documents Included in Contract. This contract consists of this Agreement and any Exhibits and Request for Proposal, which are incorporated herein by this reference. In the event of an inconsistency, the terms of this Agreement shall govern.

2.3 Compliance with Law. All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of UWIA and any Federal, State, or local governmental agency having jurisdiction in effect at the time service is rendered.

2.4 Licenses, Permits, Fees and Assessments. CONTRACTOR shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement, including registration with the Department of Industrial Relations of the State of California as required by Labor Code Section 1725.5 before commencing performance under this Agreement. CONTRACTOR shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the CONTRACTOR’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless UWIA against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against UWIA hereunder. CONTRACTOR shall be responsible for all SUBCONTRACTORS’ compliance with this Section 2.4.

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

2.6 Standard of Performance. CONTRACTOR, its SUBCONTRACTORS and their employees, in the performance of CONTRACTOR’s work under this Agreement shall be responsible for exercising the degree of skill and care required by customarily accepted good professional practices and procedures used in the CONTRACTOR’s field.

Any costs for failure to meet the foregoing standard or to correct otherwise defective work that requires re-performance of the work, shall be borne in total by the CONTRACTOR and not by UWIA. The failure of a project to achieve the performance goals and objectives stated in this Agreement is not a basis for requesting re-performance unless the work conducted by CONTRACTOR and/or its SUBCONTRACTORS is deemed by UWIA to have failed the foregoing standard of performance.

In the event CONTRACTOR fails to perform in accordance with the above standard:

1. CONTRACTOR will re-perform, at its own expense, any task which was not performed to the reasonable satisfaction of UWIA. Any work re-performed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. CONTRACTOR shall work any overtime required to meet the deadline for the task at no additional cost to UWIA;
2. UWIA shall provide a new schedule for the re-performance of any task pursuant to this paragraph in the event that re-performance of a task within the original time limitations is not feasible; and
3. UWIA shall have the option to direct CONTRACTOR not to re-perform any task which was not performed to the reasonable satisfaction of UWIA Project Manager pursuant to application of (1) and (2) above. In the event UWIA directs CONTRACTOR not to re-perform a task, UWIA shall negotiate a reasonable settlement for satisfactory work performed. No previous payment shall be considered a waiver of UWIA's right to reimbursement.

Nothing contained in this section is intended to limit any of the rights or remedies which UWIA may have under law.

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

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

2.9 Additional Services. UWIA shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written change order is first given by the Contract Officer to the CONTRACTOR, incorporating therein any adjustment in (i) the Contract Sum as set forth in Section 3.1, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the CONTRACTOR. It is expressly understood by CONTRACTOR that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. CONTRACTOR hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than CONTRACTOR anticipates and that CONTRACTOR shall not be entitled to additional compensation therefore.

2.10 Prevailing Wage Laws. CONTRACTOR represents and warrants that it is registered with the Department of Industrial Relations pursuant to SB 854 and Labor Code 1725.5. CONTRACTOR shall ensure that its SUBCONTRACTORS comply with said requirements. In

accordance with Labor Code Section 1770 et seq., the Director of the Department of Industrial Relations of the State of California has ascertained a general prevailing rate of wages, which is the minimum amount, which shall be paid to all workers employed to perform the work pursuant to this Agreement. A copy of the general prevailing wage rate determination is on file in the Office of the City Clerk of the City of Whittier and is hereby incorporated by reference into this Agreement. In accordance with the provisions of Labor Code Section 1810 et seq., eight (8) hours is the legal working day. CONTRACTOR must forfeit to UWIA Twenty-Five Dollars (\$25.00) a day for each worker who works in excess of the minimum working hours when CONTRACTOR does not pay overtime. CONTRACTOR is always required to post a copy of such wage rates at the contract site. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced. CONTRACTOR also shall comply with State law requirements to maintain payroll records and shall provide for certified records and inspection of records as required by California Labor Code Section 1770 et. seq., including Section 1776. CONTRACTOR shall comply with all statutory requirements relating to the employment of apprentices.

### 3. COMPENSATION

3.1 Contract Sum. For the services rendered pursuant to this Agreement, the CONTRACTOR shall be compensated as specified on the Schedule of Compensation included with its bid, but not exceeding the maximum contract amount of XXX XXXXX and XXXX XXXX Dollars (\$x,xxx) per month (herein "Contract Sum"), which equates to XXXXX-XXXXX Dollars (\$xx) per hour, except as provided in Section 2.9. The Contract Sum shall include the attendance of CONTRACTOR at all project meetings reasonably deemed necessary by UWIA; CONTRACTOR shall not be entitled to any additional compensation for attending said meetings.

3.2 Progress Payments. Prior to the first day of the month, during the progress of the work, commencing on the day and month specified in the Agreement, CONTRACTOR shall submit to the Contract Officer a complete itemized statement of all labor and materials incorporated into the work during the preceding month and the portion of the contract sum applicable thereto. Upon approval in writing by the Contract Officer, payment shall be made in thirty (30) days.

### 4. PERFORMANCE SCHEDULE

4.1 Schedule of Performance. CONTRACTOR shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "B", and incorporated herein by this reference. When requested by the CONTRACTOR, extensions to the time period(s) specified in the Scope of Services may be approved in writing by the Contract Officer.

4.2 Force Majeure. The time period(s) specified in the Scope of Services for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including UWIA or the City of Whittier, if the CONTRACTOR shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes for the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

4.3 Term. The term shall be for a month-to-month period from the effective date of the contract, which shall not exceed six (6) months without additional approval from the UWIA Board. UWIA shall notify the CONTRACTOR in writing of the intent to extend the contract at least thirty (30) days in advance of the expiration of the contract.

5. COORDINATION OF WORK

5.1 Representative of CONTRACTOR. The following Principals of CONTRACTOR are hereby designated as being the principals and representatives of CONTRACTOR authorized to act on its behalf with respect to the work specified herein and make all decisions in connection therewith:

Insert principal information here:

Name:	
Company Name:	
Address:	
Phone Number:	

It is expressly understood that the experience, knowledge, capability, and reputation of the foregoing Principals were a substantial inducement for UWIA to enter into this Agreement. Therefore, the foregoing Principals shall be responsible during the term of this Agreement for directing all activities of CONTRACTOR and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principals may not be replaced nor may their responsibilities be substantially reduced by CONTRACTOR without the express written approval of UWIA.

5.2 Contract Officer. The Contract Officer shall be such person as may be designated by UWIA. It shall be the CONTRACTOR’s responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the CONTRACTOR shall refer any decisions that must be made by UWIA to the Contract Officer. Unless otherwise specified herein, any approval of UWIA required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of UWIA required hereunder to carry out the terms of this Agreement.

5.3 Prohibition Against Assignment. The experience, knowledge, capability and reputation of CONTRACTOR, its principals and employees were a substantial inducement for UWIA to enter into this Agreement. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of UWIA. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of CONTRACTOR, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the CONTRACTOR or any surety of CONTRACTOR of any liability hereunder without the express consent of UWIA.

5.4 Independent CONTRACTOR. Neither UWIA nor any of its employees shall have any control over the manner, mode or means by which CONTRACTOR, its SUBCONTRACTORS, agents or employees, performs the services required herein, except as otherwise set forth herein. UWIA shall

have no voice in the selection, discharge, supervision or control of CONTRACTOR's employees, SUBCONTRACTORS, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. CONTRACTOR shall perform all services required herein as an independent CONTRACTOR of UWIA and shall remain at all times as to UWIA a wholly independent CONTRACTOR with only such obligations as are consistent with that role. CONTRACTOR shall not at any time or in any manner represent that it or any of its SUBCONTRACTORS, agents or employees are agents or employees of UWIA. UWIA shall not in any way or for any purpose become or be deemed to be a partner of CONTRACTOR in its business or otherwise or a joint venture or a member of any joint enterprise with CONTRACTOR.

5.5 Identity of Persons Performing Work. CONTRACTOR represents that it employs or will employ at its own expense all personnel required for the satisfactory performance of any and all tasks and services set forth herein. CONTRACTOR represents that the tasks and services required herein will be performed by CONTRACTOR or under its direct supervision, and that all personnel engaged in such work shall be fully qualified and shall be authorized and permitted under applicable State and local law to perform such tasks and services.

## 6. INSURANCE AND INDEMNIFICATION

6.1 Insurance. The CONTRACTOR shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to UWIA, during the entire term of this Agreement including any extension thereof:

Conditions:

In accordance with Public Contract Code Section 20170, the insurance of surety companies who provide or issue the policy shall have been admitted to do business in the State of California with a credit rating of A- or better.

This insurance shall not be canceled, limited in scope or coverage or non-renewed until after thirty (30) days prior written notice has been given to UWIA.

Any insurance maintained by UWIA shall apply in excess of and not combined with insurance provided by this policy.

UWIA, its officers, employees, representatives, attorneys, and volunteers, as well as the City of Whittier, shall be named as additional insureds.

Prior to commencement of any work under this contract, CONTRACTOR shall deliver to UWIA insurance endorsements confirming the existence of the insurance required by this contract, and including the applicable clauses referenced above.

Such endorsements shall be signed by an authorized representative of the insurance company and shall include the signature company's affiliation and title. Should it be deemed necessary by UWIA, it shall be CONTRACTOR's responsibility to see that UWIA receives documentation, acceptable to UWIA, which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company.

If the CONTRACTOR fails to maintain the aforementioned insurance, or secure and maintain the aforementioned endorsement, UWIA may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement. However,

procuring of said insurance by UWIA is an alternative to other remedies UWIA may have, and is not the exclusive remedy for failure of CONTRACTOR to maintain said insurance or secure said endorsement. In addition to any other remedies UWIA may have upon CONTRACTOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, UWIA shall have the right to order CONTRACTOR to stop work hereunder, and/or withhold any payment(s) which became due to CONTRACTOR hereunder until CONTRACTOR demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or its SUBCONTRACTOR's performance of the work covered under this agreement.

**Worker's Compensation & Employer's Liability.** In accordance with state compensation laws, CONTRACTOR shall carry worker's compensation & employer's liability insurance for all persons employed in the performances of services at all times, described in this proposal.

**Liability/Bodily Injury and Property Damage.** CONTRACTOR shall carry liability insurance/bodily injury and property damage in the amount not less than \$2,000,000 per occurrence with a \$3,000,000 aggregate.

**Automobile Liability Insurance.** CONTRACTOR shall carry automobile liability insurance/bodily injury and property damage liability in the amount not less than \$1,000,000 per combined single limit. All vehicles shall be registered and maintained by the selected Contractor.

UWIA, its Board members, Directors and Officers, as well as the City of Whittier, shall be named as additionally insured on all policies.

Each contract between the CONTRACTOR and any SUBCONTRACTOR shall require the SUBCONTRACTOR to maintain the same policies of insurance that the CONTRACTOR is required to maintain pursuant to this Section 6.1.

6.2 Certificates of Insurance. CONTRACTOR shall provide to UWIA certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by UWIA, prior to performing any services under this Agreement. The certificates of insurance shall be attached to this Agreement as Exhibit "C" and are incorporated herein by this reference.

6.3 Indemnification. CONTRACTOR shall defend, indemnify, hold free and harmless UWIA, its elected and appointed officials, officers, agents and employees, as well as the City of Whittier, its elected and appointed officials, officers, agents and employees, at CONTRACTOR's sole expense, from and against any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the performance of the work, operations or activities of CONTRACTOR, its agents, employees, SUBCONTRACTORS, or invitees, provided for herein, or arising or alleged to arise from the negligent acts or omissions of CONTRACTOR hereunder, or arising or alleged to arise from CONTRACTOR's performance of or failure to perform any term, provision, covenant or condition of this Agreement.

- (a) *CONTRACTOR will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith.*
- (b) *CONTRACTOR will promptly pay any judgment rendered against UWIA , its officers, agents or employees, as well as the City of Whittier, and its officers, agents and employees, for any such claims or liabilities arising or alleged to arise out of or in connection with CONTRACTOR's (or its agents', employees', SUBCONTRACTORS' or invitees') negligent performance of or failure to perform such work, operations or activities hereunder; and CONTRACTOR agrees to save and hold UWIA, its officers, agents, and employees, as well as the City of Whittier, and its officers, agents and employees harmless therefrom.*
- (c) *In the event UWIA, its officers, agents or employees, and/or the City of Whittier, and its officers, agents and employees, is made a party to any action or proceeding filed or prosecuted against CONTRACTOR for such damages or other claims arising or alleged to arise out of or in connection with the performance of or failure to perform the work, operation or activities of CONTRACTOR hereunder, CONTRACTOR shall pay to UWIA, its officers, agents or employees, and/or the City of Whittier, and its officers, agents and employees, any and all costs and expenses incurred by UWIA, its officers, agents or employees and/or the City of Whittier, and its officers, agents and employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel selected by UWIA and/or the City of Whittier.*
- (d) *CONTRACTOR's duty to defend and indemnify as set out in this Section 6.3 shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the Porter-Cologne Water Quality Control Act, as any of those statutes may be amended from time to time.*

Notwithstanding the foregoing, CONTRACTOR shall not be liable for the defense or indemnification of UWIA or City of Whittier for claims, actions, complaints, or suits arising out of the sole active negligence or willful misconduct of UWIA or City of Whittier.

The CONTRACTOR's indemnification obligations pursuant to this Section 6.3 shall survive the termination of this Agreement. CONTRACTOR shall require the same indemnification from all SUBCONTRACTORS.

6.4 Sufficiency of Insurer or Surety. Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and

only if they are of a financial category Class VII or better, unless such requirements are waived by the Contract Officer of UWIA due to unique circumstances. In the event the Contract Officer of UWIA determines that the work or services to be performed under this Agreement creates an increased risk of loss to UWIA, the CONTRACTOR agrees that the minimum limits of the insurance policies required by this Section 6 may be changed accordingly upon receipt of written notice from the Contract Officer of UWIA; provided that the CONTRACTOR shall have the right to appeal a determination of increased coverage by the Contract Officer of UWIA to the UWIA Board within ten (10) days of receipt of notice from the Contract Officer of UWIA.

6.5 Substitution of Securities. Pursuant to California Public Contract Code Section 22300, substitution of eligible equivalent securities for any monies withheld to ensure performance under the contract for the work to be performed will be permitted at the request and expense of the successful bidder.

## 7. RECORDS AND REPORTS

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

7.2 Records. CONTRACTOR shall keep, and require SUBCONTRACTORS to keep, such books and records (including but not limited to payroll records as required herein) as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of UWIA, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and UWIA shall have access to such records in the event any audit is required.

7.3 Ownership of Documents. All drawings, specifications, reports, records, documents and other materials prepared by CONTRACTOR, its employees, SUBCONTRACTORS and agents in the performance of this Agreement shall be the property of UWIA and shall be delivered to UWIA upon request of the Contract Officer or upon the termination of this Agreement, and CONTRACTOR shall have no claim for further employment or additional compensation as a result of the exercise by UWIA of its full rights of ownership of the documents and materials hereunder. CONTRACTOR may retain copies of such documents for its own use. CONTRACTOR shall have an unrestricted right to use the concepts embodied therein. All SUBCONTRACTORS shall provide for assignment to UWIA of any documents or materials prepared by them, and in the event, CONTRACTOR fails to secure such assignment, CONTRACTOR shall indemnify UWIA for all damages resulting therefrom.

7.4 Public Records Act Disclosure. CONTRACTOR has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by CONTRACTOR, or any of its

SUBCONTRACTORS, pursuant to this Agreement and provided to UWIA may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which CONTRACTOR informs UWIA of such trade secret. UWIA will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. UWIA shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

## 8. GENERAL PROVISIONS

8.1 Governing Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and CONTRACTOR covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Representatives. UWIA Contract Officer or his or her designee shall be the representative of UWIA for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of UWIA, called for by this Agreement, except as otherwise expressly provided in this Agreement.

The Principal set forth in Section 5.1 above shall be the representative for CONTRACTOR for purposes of this Agreement, and shall be authorized to issue all consents, approvals, directives and agreements on behalf of CONTRACTOR called for by this Agreement, except as otherwise expressly provided in this Agreement.

8.3 Disputes. In the event either party fails to perform its obligations hereunder, the nondefaulting party shall provide the defaulting party written notice of such default. The defaulting party shall have ten (10) days to cure the default; provided that, if the default is not reasonably susceptible to being cured within said ten (10) day period, the defaulting party shall have a reasonable time to cure the default, not to exceed a maximum of thirty (30) days, so long as the defaulting party commences to cure such default within ten (10) days of service of such notice and diligently prosecutes the cure to completion; provided further that if the default is an immediate danger to the health, safety and general welfare, the defaulting party shall take such immediate action as may be necessary. Notwithstanding the foregoing, the nondefaulting party may, in its sole and absolute discretion, grant a longer cure period. Should the defaulting party fail to cure the default within the time period provided in this Section, the nondefaulting party shall have the right, in addition to any other rights the nondefaulting party may have at law or in equity, to terminate this Agreement. Compliance with the provisions of this Section 8.3 shall be a condition precedent to bringing any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured.

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

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

8.6 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.7 Termination for Default of CONTRACTOR. If termination is due to the failure of the CONTRACTOR to fulfill its obligations under this Agreement, CONTRACTOR shall vacate any UWIA owned property which CONTRACTOR is permitted to occupy hereunder and UWIA may, after compliance with the provisions of Section 8.3, take over the work and prosecute the same to completion by contract or otherwise, and the CONTRACTOR shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that UWIA shall use reasonable efforts to mitigate such damages), and UWIA may withhold any payments to the CONTRACTOR for the purpose of setoff or partial payment of the amounts owed UWIA as previously stated.

8.8 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and shall be deemed to be given when served personally or deposited in the US Mail, prepaid, first-class mail, return receipt requested, addressed as follows:

To UWIA:

UWIA  
c/o GM Properties  
13305 Penn Street, Suite 200  
Whittier, CA 90602

To CONTRACTOR:

XXXXXXXX, XXX  
XXX XXXXX XX  
XXXX, XX XXXXX

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

8.10 Conflict of Interest. The CONTRACTOR warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

CONTRACTOR certifies that no member, officer, or employee of UWIA or the City of Whittier who exercises any functions or responsibilities with respect to the programs or projects

covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.

CONTRACTOR shall immediately notify UWIA of any real or possible conflict of interest between work performed for UWIA and for other clients served by CONTRACTOR.

CONTRACTOR warrants and represents, to the best of its present knowledge, that no employee of the UWIA who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. CONTRACTOR shall exercise due diligence to ensure that no such employee will receive such an interest.

CONTRACTOR further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by CONTRACTOR. to UWIA, that no employee of the UWIA who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in CONTRACTOR or this Agreement. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. CONTRACTOR agrees to promptly disclose to UWIA in writing any information it may receive concerning any such potential conflict of interest. CONTRACTOR'S attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).

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

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

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

8.14 Hiring of Illegal Aliens Prohibited. CONTRACTOR shall not hire or employ any person to perform work or allow any person to perform work required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States.

8.15 Unfair Business Practices Claims. In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the CONTRACTOR or SUBCONTRACTOR offers and agrees to assign to the awarding body 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, (commencing with Section 16700) 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 renders final payment to the CONTRACTOR without further acknowledgment by the parties. (Sec. 7103.5, California Public Contract Code).

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

8.17 PERS Eligibility Indemnification. In the event that CONTRACTOR or any employee, agent, or SUBCONTRACTOR of CONTRACTOR providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of UWIA, CONTRACTOR shall indemnify, defend, and hold harmless UWIA for the payment of any employee and/or employer contributions for PERS benefits on behalf of CONTRACTOR or its employees, agents, or SUBCONTRACTORS, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of UWIA.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, CONTRACTOR and any of its employees, agents, and SUBCONTRACTORS providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by UWIA, including but not limited to eligibility to enroll in PERS as an employee of UWIA and entitlement to any contribution to be paid by UWIA for employer contribution and/or employee contributions for PERS benefits.

8.18 Cooperation. In the event any claim or action is brought against UWIA relating to CONTRACTOR's performance or services rendered under this Agreement, CONTRACTOR shall render any reasonable assistance and cooperation which UWIA might require.

8.19 Legal Responsibilities. The CONTRACTOR shall keep itself informed of City, State, and Federal laws, ordinances, and regulations, which may in any manner affect the performance of its services pursuant to this Agreement. The CONTRACTOR shall at all times observe and comply with all such laws, ordinances, and regulations. Neither the UWIA, nor its officers, agents, or employees shall be liable at law or in equity as a result of the CONTRACTOR's failure to comply with this section.

8.20 Termination for Convenience. UWIA may terminate this Agreement without cause for convenience of UWIA upon giving CONTRACTOR 30 days prior written notice of termination of the Agreement. Upon receipt of the notice of termination the CONTRACTOR shall cease all further work pursuant to the Agreement. Upon such termination by UWIA the CONTRACTOR shall not be entitled

to any other remedies, claims, actions, profits, or damages except as provided in this paragraph. Upon the receipt of such notice of termination CONTRACTOR shall be entitled to the following compensation:

1. The contract value of the work completed to and including the date of receipt of the notice of termination, less the amount of progress payments received by CONTRACTOR.
2. Actual move-off costs including labor, rental fees, equipment transportation costs, the costs of maintaining on-site construction office for supervising the move-off.
3. The cost of materials custom made for this Agreement which cannot be used by the CONTRACTOR in the normal course of his business, and which have not been paid for by UWIA in progress payments.
4. All costs shall not include any markups as might otherwise be allowed by any plans or specifications which were a part of the Agreement.

The provisions of this paragraph shall supersede any other provision of the Agreement or any provision of any plans, specification, addendums, or other documents which are or may become a part of this Agreement. UWIA and CONTRACTOR agree that the provisions of this paragraph are a substantive part of the consideration for this Agreement.

8.21 Responsibility for Errors. CONTRACTOR shall be responsible for its work and results under this Agreement. CONTRACTOR, when requested, shall furnish clarification and/or explanation as may be required by UWIA's representative, regarding any services rendered under this Agreement at no additional cost to UWIA. In the event that an error or omission attributable to CONTRACTOR occurs, then CONTRACTOR shall, at no cost to UWIA, provide all necessary design drawings, estimates and other CONTRACTOR professional services necessary to rectify and correct the matter to the sole satisfaction of UWIA and to participate in any meeting required with regard to the correction.

8.22 Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

8.23 Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

8.24 No Third-Party Beneficiary Rights. This Agreement is entered into for the sole benefit of UWIA and CONTRACTOR and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

8.25 Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

8.26 Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

8.27 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

8.28 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

**UWIA, Uptown Whittier Improvement Association**

a California non-profit public benefit corporation,

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

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

XXXXXXXXXXXX, CLERK

**CONTRACTOR, XXXXXXXXXXXX, XX  
XXXXXX** a California corporation

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

\_\_\_\_\_

Signature

\_\_\_\_\_

Name and Title

\_\_\_\_\_

Social Security or Taxpayer ID Number

APPROVED AS TO FORM:

\_\_\_\_\_

Ajit S. Thind, Counsel for UWIA

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