C-16-029

CONTRACT SERVICES AGREEMENT

By and Between

CITY OF CARSON

and

WHITE NELSON DIEHL EVANS LLP

AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF CARSON AND
WHITE NELSON DIEHL EVANS LLP

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 8 day of June, 2016 by and between the City of Carson, a California municipal corporation ("City") and White Nelson Diehl Evans LLP ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

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

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

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

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

OPERATIVE PROVISIONS

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

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

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

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

1.2 Consultant's Proposal.

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

1.3 Compliance with Law.

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

1.4 Licenses. Permits. Fees and Assessments.

Consultant 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. Consultant 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 Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

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

1.6 Care of Work.

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

1.7 Further Responsibilities of Parties.

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

1.8 Additional Services.

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

1.9 Special Requirements.

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

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Four Hundred Twenty Eight Thousand Four Hundred Fifty Five Dollars ($428,455.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

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

2.3 Reimbursable Expenses.

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

2.4 Invoices.

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

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

2.5 Waiver.

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

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

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

3.2 Schedule of Performance.

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

3.3 Force Majeure.

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

3.4 Term.

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

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

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

Robert Callanan	Engagement Partner
(Name)	(Title)
Nitin P. Patel	Technical Review Partner

(Name) (Title)

(Name) (Title)

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

4.2 Status of Consultant.

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

4.3 Contract Officer.

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

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an

independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, 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 Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

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

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

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

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than

$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

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

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

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

5.2 General Insurance Requirements.

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

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

No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

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

CANCELLATION:

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

[to be initialed] _____
Consultant Initials

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

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

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

5.3 Indemnification.

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

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

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

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

5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the

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

6.2 Reports.

Consultant 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. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant 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 Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

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

6.4 Confidentiality and Release of Information.

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

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

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

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

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

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

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the

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

7.3 Retention of Funds.

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

7.4 Waiver.

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

7.5 Rights and Remedies are Cumulative.

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

7.6 Legal Action.

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

remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

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

7.9 Attorneys' Fees.

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

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

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

8.2 Conflict of Interest.

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

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant 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.

8.3 Covenant Against Discrimination.

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

8.4 Unauthorized Aliens.

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

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

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

9.3 Counterparts.

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

9.4 Integration; Amendment.

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

9.5 Severability.

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

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _____

9.7 Corporate Authority.

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

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia Gause, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney

CONSULTANT:

White Nelson Diehl Evans LLP

By: Robert J. Callanan
Name: Robert Callanan
Title: Engagement Partner

By: Not Applicable
Name:
Title:
Address: 2875 Michelle Drive, Suite 300
Irvine, CA 92606

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

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

STATE OF CALIFORNIA)

COUNTY OF XXXX Orange)

On June 1, 2016 before me, Brandi Melendez, Notary

Date *Here Insert Name and Title of Officer*

personally appeared Robert Callanan

Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

BRANDI MELENDEZ
Commission # 2034882
Notary Public - California
Orange County
My Comm. Expires Jul 27, 2017

Signature of Notary Public

Place Notary Seal Above

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services:

A. Audit of City Financial Statements. Conduct an audit of the City's financial statements in accordance with the generally accepted accounting principles accepted in the United States of America and Government Auditing Standards issued by the Comptroller General of the United States and other applicable laws and regulations that shall include the following:

1. Audit Planning Procedures shall include:

   (a) Pre-audit conference with the City to establish process of communication between the audit team and City staff.

   (b) Discussion of any new accounting pronouncements to be implemented in the current year.

   (c) Establish scope of work and timing of fieldwork.

2. Interim Fieldwork shall include:

   Gather information about the City and its environment, including internal control:

   (a) Evaluate design of internal controls that are relevant to the audit and determine whether the control, either individually or in combination is capable of effecting, preventing or detecting and correcting material misstatements.

   (b) Determine that controls exist and that the City is using controls.

   (c) Specific areas to review include:

      (i) Accounts payable/cash disbursements

      (ii) Accounts receivable/cash receipts

      (iii) Payroll disbursements

      (iv) Utility billing process

      (v) Investment compliance

      (vi) Property and equipment

   (d) Review of minutes of the City of Carson.

(e) Review of important contracts and debt agreements.

(f) Interim exit conference with the City to review results of interim fieldwork, including any findings.

3. Final Audit Work shall include:

During the final audit work, Consultant shall assess "risk" of material misstatement based on understanding of the City's audit environment, including its internal control, to identify account balances to audit that appear in the City's financial statements. Consultant shall specifically tailor its audit programs to address any significant risks identified.

(a) Confirmation of cash and investments balances and testing of bank reconciliations.

(b) Confirm significant receivable balances or review subsequent cash receipts to verify receivable balance.

(c) Search for unrecorded liabilities.

(d) Testing of interfund balances and transfers.

(e) Test capital asset additions and depreciation expense.

(f) Confirm long-term debt balances and review the accounting treatment of debt issued or refunded.

(g) Test support for other significant assets or liabilities.

(h) Analytical procedures on balance sheet and revenue and expenditure accounts, to evaluate and explain unusual fluctuations from prior year balances or current year budgeted amounts.

(i) Review of attorney letters for significant legal matters affecting the City's financial position.

(j) An exit conference to review any significant adjustments or findings.

4. Analysis of Internal Controls:

(a) Consultant's audit shall include obtaining an understanding of the City and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures.

(b) Consultant shall obtain an understanding of the internal controls by completing narratives and checklists for various processes related to

internal control. Tests of controls may be performed to test the effectiveness of certain controls that Consultant considers relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements.

(c) Consultant shall perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that are relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program.

(d) Consultant shall communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, Government Auditing Standards, and the Uniform Guidance.

B. Financial Audit of the Carson Redevelopment Successor Agency.

1. Procedures shall include the following:

(a) Procedures found in Section I.A. of this Exhibit.

(b) Audit the balances reported for cash, investments, receivables, payables, capital assets, and long term liabilities as of the end of the year.

(c) Review the activity reported on the Carson Redevelopment Successor Agency's Recognized Obligation Payment Schedules (ROPS).

(d) Review the activities of the Successor Agency to ensure compliance with AB 26, AB 1484, and other relevant legislation enacted.

(e) Test the effectiveness of certain controls Consultant considers relevant to (1) preventing and detecting errors and fraud that are material to the financial statements and (2) to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements.

(f) Perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that Consultant considers relevant to preventing or detecting material noncompliance with compliance requirements applicable to each federal award program.

C. Financial Audit of the Carson Housing Authority.

1. Procedures shall include the following:

(a) Procedures found in Section I.A. of this Exhibit.

D. Financial Audit of the Carson Reclamation Joint Powers Authority.

1. Procedures shall include the following:

(a) Procedures found in Section I.A. of this Exhibit.

E. Single Audit of Federal Grants. Audit shall be performed to meet the requirements of Title 2 of the U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). The Single Audit shall be performed in accordance with all of the requirements of the Single Audit Act, the Uniform Guidance, and *Government Auditing Standards* issued by the GAO (the "Yellow Book") for cities that expend greater than $750,000 in federal awards in fiscal year 2015-2016 and subsequent years.

1. Single Audit shall include:

(a) Identification of the major and nonmajor federal programs of the City through the risk-based approach required by the Uniform Guidance. This approach includes consideration of current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the federal program.

(b) Review all federal and industry-specific publications and guidance and inform the City of any recent changes.

(c) Performance of tests and controls to evaluate the effectiveness of the design and operation of controls that Consultant considers relevant to preventing or detecting material noncompliance with applicable compliance requirements. If weaknesses in the internal controls are noted, Consultant will modify audit program as needed.

(d) Tests of transactions related to major federal award programs for compliance and applicable compliance requirements and certain provisions of laws, regulations, contracts and grant agreements.

(e) Utilizing applicable procedures described in the Uniform Guidance for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of those procedures will be to express an opinion on the City's compliance with requirements applicable to major programs in

Consultant's report on compliance issued pursuant to the Uniform Guidance.

(f) Report shall include the appropriate schedules reports on internal controls when federal expenditures meet or exceed the threshold requiring a Single Audit.

(g) Assist the City in completing and filing the Data Collection Form.

F. An Agreed-Upon Procedures Review of the City's GANN Appropriations Limit.

1. Review shall test compliance with Article XIIIB of the California Constitution pertaining to the City's appropriation limit.

2. Consultant shall prepare a letter to the City Council regarding compliance with Article XIIIB of the California Constitution.

G. Prepare and submit a Management Letter. Management Letter shall include any non-reportable comments or recommendations resulting from Consultant's review of the systems of internal controls in connection with the financial audits.

H. Additional Services:

1. Preparation of City's Comprehensive Annual Financial Report (CAFR).

2. Preparation of City's State Controller's Annual Financial Transactions Report.

3. Preparation of City's State Controller's Annual Street Report to State Controller.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

A. Signed Independent Auditors' Report on auditor letterhead (electronic copy).

B. Independent Auditors' Report On Internal Control Over Financial Reporting And On Compliance And Other Matters Based On An Audit Of Financial Statements Performed In Accordance With Government Auditing Standards (electronic copy).

C. Independent Accountants' Report on Agreed-Upon Procedures Applied to Appropriations Limit Calculation (electronic copy).

D. Separately issued financial statements for the Redevelopment Successor Agency, Housing Authority, and Reclamation Joint Powers Authority (10 copies each).

E. Single Audit Report including appropriate schedules and auditors' reports, if applicable (10 copies).

F. A Management Letter addressed to the City Council recommending improvements to the City's internal control that are otherwise non-reportable (electronic copy).

G. The Consultant shall communicate in a letter to the Audit Committee, City Manager, and the Director of Finance any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the City's ability to record, process, summarize, and report financial data consistent with assertions of management in the financial statements. Non-reportable conditions discovered by the Consultant shall be communicated in the Management Letter, as noted above.

H. The Consultant shall be required to make immediate written notification to the Audit Committee, City Manager, Director of Finance, and City Attorney of all irregularities and illegal acts or indications of illegal acts of which the Consultant becomes aware.

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports:

A. Planning meeting with the Audit Committee and/or City Management

B. Drafts of all reports provided to City Management, prior to finalization

C. Exit meeting with the Audit Committee and/or City Management

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

A. Robert Callanan, Engagement Partner

B. Nitin P. Patel, Technical Review Partner

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

I. Section 1.1, Scope of Services, is hereby amended to read as follows:

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those auditing standards generally accepted in the United States of America as set forth by the American Institute of Certified Public Accountants, the standards for financial and compliance audits contained in the Government Auditing Standards issued by the U.S. General Accounting Office, the provisions of the Single Audit Act, and the provisions of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Awards*, ~~standards of practice recognized by one or more first class firms performing similar work under similar circumstances.~~

II. Section 3.4, Term, is hereby amended to read as follows:

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect ~~until completion of the services but not exceeding one (1) years from the date hereof~~ for three (3) years from the date hereof, ending on June 30, 2019, except as otherwise provided in the Schedule of Performance (Exhibit "D"). Pursuant to the requirements of this Agreement, the City Manager shall have the authority to extend this Agreement, in a writing executed by the City Manager and Consultant that memorializes such extension, by two (2) additional terms of one (1) year each provided that compensation to Consultant for each additional term shall be in the amounts described under Section I of Exhibit C.

III. Section 6.3, Ownership of Documents, is hereby amended to read as follows:

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result

of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder except for the audit working papers which are required to be the property of the auditors in accordance with generally accepted auditing standards. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. **Consultant shall perform the following tasks on an annual basis with sub-budgets not to exceed the following. Payment will be made upon Consultant's completion of the contracted services.**

		Compensation for Initial 3 year Term (Ending on June 30, 2019)			Compensation for Each Additional Term	
	TASK	SUB-BUDGET (Audit of FY 2015-2016)	SUB-BUDGET (Audit of FY 2016-2017)	SUB-BUDGET (Audit of FY 2017-2018)	SUB-BUDGET (Audit of FY 2018-2019)	SUB-BUDGET (Audit of FY 2019-2020)
A.	Audit of City of Carson	$42,310	$42,310	$43,580	$44,890	$46,235
B.	Single Audit and Related Reports for three (3) major programs	$7,680	$7,680	$7,910	$8,145	$8,390
C.	GANN Appropriations Limit Review	$505	$505	$520	$535	$550
D.	Audit of Successor Redevelopment Agency	$7,455	$7,455	$7,680	$7,910	$8,150
E.	Audit of Housing Authority	$2,870	$2,870	$2,955	$3,045	$3,135
F.	Audit of Reclamation Joint Powers Authority	$11,980	$11,980	$12,340	$12,710	$13,090
G.	Preparation of City's CAFR	$4,130	$4,130	$4,255	$4,380	$4,510

H.	**Preparation of City's State Controller's Annual Financial Transactions Report**	$3,590	$3,590	$3,700	$3,810	$3,925
I.	**Preparation of City's State Controller's Annual Street Report to State Controller**	$2,135	$2,135	$2,200	$2,265	$2,330
Total Not to Exceed Fees		$82,655	$82,655	$85,140	$87,690	$90,315

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for the Services shall not exceed $428,455.00, as provided in Section 2.1 of this Agreement.

V. The Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "C-1"

CONSULTANT'S BILLING RATES FOR FISCAL YEAR 2015-2016

I. Audit of City of Carson

	Hours	Hourly Rates	Total
Partners	15	$240	$3,600
Managers	30	$175	$5,250
Supervisory Staff	107	$135	$14,445
Staff	197	$90	$17,730
Clerical	6	$60	$360
Subtotal	355		$41,385
Out-of Pocket Expenses: Transportation, meals, and lodging			$925
Total			$42,310

II. Single Audit and Related Reports

	Hours	Hourly Rates	Total
Partners	2	$240	$480
Managers	6	$175	$1,050
Supervisory Staff	14	$135	$1,890
Staff	46	$90	$4,140
Clerical	2	$60	$120
Subtotal	70		$7,680

Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$7,680

III. GANN Appropriation Limit Review

	Hours	**Hourly Rates**	**Total**
Partners	-	$240	-
Managers	1	$175	$175
Supervisory Staff	-	$135	-
Staff	3	$90	$270
Clerical	1	$60	$60
Subtotal	5		$505
Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$505

IV. Audit of Successor Redevelopment Agency

	Hours	**Hourly Rates**	**Total**
Partners	3	$240	$720
Managers	6	$175	$1,050
Supervisory Staff	25	$135	$3,375

Staff	25	$90	$2,250
Clerical	1	$60	$60
Subtotal	60		$7,455
Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$7,455

V. **Audit of Housing Authority**

	Hours	**Hourly Rates**	**Total**
Partners	1	$240	$240
Managers	2	$175	$350
Supervisory Staff	4	$135	$540
Staff	18	$90	$1,620
Clerical	2	$60	$120
Subtotal	27		$2,870
Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$2,870

VI. Audit of and Related Report for Reclamation Joint Powers Authority

	Hours	Hourly Rates	Total
Partners	4	$240	$960
Managers	10	$175	$1,750
Supervisory Staff	30	$135	$4,050
Staff	56	$90	$5,040
Clerical	3	$60	$180
Subtotal	103		$11,980
Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$11,980

VII. Preparation of the City's CAFR

	Hours	Hourly Rates	Total
Partners	1	$240	$240
Managers	2	$175	$350
Supervisory Staff	4	$135	$540
Staff	24	$90	$2,160
Clerical	14	$60	$840
Subtotal	45		$4,130
Out-of Pocket Expenses: Transportation, meals, and			-

lodging			
Total			$4,130

VIII. Preparation of the City's State Controller's Annual Financial Transactions Report

	Hours	**Hourly Rates**	**Total**
Partners	1	$240	$240
Managers	2	$175	$350
Supervisory Staff	4	$135	$540
Staff	26	$90	$2,340
Clerical	2	$60	$120
Subtotal	35		$3,590
Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$3,590

IX. Preparation of the City's State Controller's Annual Street Report

	Hours	**Hourly Rates**	**Total**
Partners	1	$240	$240
Managers	2	$175	$350
Supervisory Staff	3	$135	$405
Staff	12	$90	$1,080
Clerical	1	$60	$60

Subtotal	19		$2,135
Out-of Pocket Expenses: Transportation, meals, and lodging			-
Total			$2,135

X. Hourly Rates for Additional Professional Services

	Hourly Rates for Initial 3 Year Term			Hourly Rates for Each Additional Term	
	Audit of Fiscal Year 2015-2016	**Audit of Fiscal Year 2016-2017**	**Audit of Fiscal Year 2017-2018**	**Audit of Fiscal Year 2018-2019**	**Audit of Fiscal Year 2019-2020**
Partners	$240	$240	$247	$255	$262
Managers	$175	$175	$180	$186	$191
Supervisory Staff	$135	$135	$139	$143	$148
Staff	$90	$90	$93	$95	$98
Clerical	$60	$60	$62	$64	$66

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. **Consultant shall perform all Services timely in accordance with the schedule to be developed by Consultant and subject to the written approval of the Contract Officer and the City Attorney's office.**

II. **Consultant shall deliver the following tangible work products to the City by the following dates on an annual basis.**

		Draft Due by:	Final Report Due by:
A.	Signed Independent Auditors' Report on the CAFR for City	October 31	November 15
B.	Management Letter	October 31	November 15
C.	Audit Committee Letter	October 31	November 15
D.	Independent Auditors' Report On Internal Control Over Financial Reporting And On Compliance And Other Matters Based On An Audit Of Financial Statements Performed In Accordance With *Government Auditing Standards*	October 31	November 15
E.	Report on Compliance with Article XIIIB GANN Appropriation Limit (GANN Limit Review)	October 31	November 15
F.	Single Audit Report: Independent Auditors' Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by the Uniform Guidance and on the Schedule of Expenditures of Federal Awards	March 1	March 15
G.	Annual Financial Report on Carson Reclamation Joint Powers Authority	October 31	November 15

III. **The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**

File #: 2016-526, **Version:** 1

Report to Mayor and City Council

Wednesday, June 08, 2016

Consent

SUBJECT:

CONSIDER AWARD OF CONTRACT FOR PROFESSIONAL INDEPENDENT AUDIT SERVICES (CITY COUNCIL)

I. SUMMARY

The City retains a professional independent auditor to perform an annual audit of the City's financial statements and provide other related services as needed.

II. RECOMMENDATION

AWARD a contract to the certified public accounting firm White Nelson Diehl Evans LLP for an amount not to exceed $453,455 for five years of services beginning with the audit of fiscal year ended June 30, 2016.

III. ALTERNATIVES

TAKE another action deemed appropriate by the City Council.

IV. BACKGROUND

Independent audit services have been provided by Vasquez & Co., LLP for the past six years. The original contract was executed in 2010 for audits of FY09-10, FY10-11, and FY11-12, with the option to extend the engagement two additional years (FY12-13 & FY13-14). On July 30, 2015, the City Council approved another one-year extension for FY14-15.

California Government Code section 12410.6(b) indicates:

"a local agency shall not employ a public accounting firm to provide audit services to a local agency if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for six consecutive fiscal years."

Of course the audit firm may propose a different audit partner to comply with this code section. However, periodically changing audit firms offers advantages such as a fresh outlook and greater independence from Management.

On March 15, 2016, the City issued Request for Proposal (RFP) for Professional Audit Services. The RFP was sent directly to 12 independent audit firms with experience auditing government agencies, and posted to the City's website. The City received 8 proposals, including a proposal from Vasquez & Co., LLP. Staff reviewed the proposals; and considered expertise, depth of resources, geographical location, and price. Two firms were selected to be interviewed by the City Attorney, City Manager, Assistant City Manager, Director of Finance, and the Senior Accountant. Staff recommends awarding the contract to White Nelson Diehl Evans LLP.

The engagement would include audit of the annual financial statements for the City, Successor Agency, Housing Authority and Reclamation Authority. The engagement also includes meetings with the Audit Ad-Hoc Subcommittee of the City Council, review of the annual appropriations limit, and the Single Audit for federal financial assistance. Optional services include preparation of the annual Comprehensive Annual Financial Report, and the City's required annual reports to the California State Controller's Office. Staff is recommending an additional contract authorization of up to $25,000 for special services, to be authorized by the City Manager. Such services may include a review of payroll tax calculations to ensure compliance with state and federal law, or a review of internal controls to check compliance with state guidelines.

The proposed contract is for an initial period of 3 years, plus 2 additional one-year options to be exercised by written authorization from the City Manager. The proposed contract includes 3 deviations from the form contract language listed on agenda item pages 30-31. The deviations relate to: 1) professional standards defined as auditing standards issued by the federal government; 2) the multi-year term of the contract; and 3) the ownership of the auditor's work-papers in conformance with auditing standards.

V. FISCAL IMPACT

The total maximum contract award of $453,455 is for five years of services (3 years + 2 one-year options); and includes the additional $25,000 optional authorization noted above. Actual cost of services may be less than $453,455, depending upon the optional services requested. The draft FY16-17 budget includes sufficient funding for the first year of services.

VI. EXHIBITS

A - Contract for Professional Auditing Services Proposal with White Nelson Diehl Evans LLP (pages 3-41)

Prepared by: Kathryn Downs, Director of Finance