AGENDA
A REGULAR MEETING
OF THE CUDAHY CITY COUNCIL
and JOINT MEETING of the
CITY OF CUDAHY AS SUCCESSOR AGENCY and HOUSING SUCCESSOR AGENCY
TO THE CUDAHY DEVELOPMENT COMMISSION
Tuesday, October 15, 2019 – 6:30 P.M.

Written materials distributed to the City Council within 72 hours of the City Council meeting shall be available for public inspection in the City Clerk’s Office at City Hall located at 5220 Santa Ana Street, Cudahy, CA 90201.

In compliance with the Americans with Disabilities Act (ADA) if you need special assistance to participate in this meeting, you should contact the City Clerk’s Office at (323) 773-5143 at least 72 hours in advance of the meeting.

Rules of Decorum

“Members of the Public are advised that all PAGERS, CELLULAR TELEPHONES and any OTHER COMMUNICATION DEVICES are to be turned off upon entering the City Council Chambers.” If you need to have a discussion with someone in the audience, kindly step out into the lobby.

Under the Government Code, the City Council may regulate disruptive behavior that impedes the City Council Meeting.

Disruptive conduct may include, but is not limited to:

- Screaming or yelling during another audience member’s public comments period;
- Profane language directed at individuals in the meeting room;
- Throwing objects at other individuals in the meeting room;
- Physical or verbal altercations with other individuals in the meeting room; and
- Going beyond the allotted three-minute public comment period granted.

When a person’s or group’s conduct disrupts the meeting, the Mayor or presiding officer will request that the person or group stop the disruptive behavior, and WARN the person or group that they will be asked to leave the meeting room if the behavior continues.

If the person or group refuses to stop the disruptive behavior, the Mayor or presiding officer may order the person or group to leave the meeting room, and may request that those persons be escorted from the meeting room. Any person who, without authority of law, willfully disturbs or breaks up a City Council meeting is guilty of a misdemeanor. (Pen. Code, § 403.)
It should also be noted that any person who WILLFULLY disturbs or breaks up the City Council meeting may be arrested for a misdemeanor offense. (Penal Code, § 403.)

1. CALL TO ORDER

2. ROLL CALL

   Council / Agency Member Garcia
   Council / Agency Member Guerrero
   Council / Agency Member Lozoya
   Vice Mayor / Vice Chair Alcantar
   Mayor / Chair Gonzalez

3. PLEDGE OF ALLEGIANCE

4. PRESENTATIONS

5. PUBLIC COMMENTS

   (Each member of the public may submit one comment card if he or she wishes to address the City Council. Only speakers that submit a comment card within the first 20 minutes of the meeting will be permitted to speak for three (3) minutes concerning items under the City Council’s jurisdiction, including items on the agenda and closed session items.)

   (Any person who, without authority of law, willfully disturbs or breaks up a City Council meeting is guilty of a misdemeanor. (Pen. Code, § 403).)

6. CITY COUNCIL COMMENTS / REQUESTS FOR AGENDA ITEMS (Each Council Member is limited to three minutes.)

   (This is the time for the City Council / Agency to comment on any topics related to “City Business,” including announcements, reflections on city / regional events, response to public comments, suggested discussion topics for future council meetings, general concerns about particular city matters, questions to the staff, and directives to the staff (subject to approval / consent of the City Council majority members present, regarding staff directives). Each Council / Agency Member will be allowed to speak for a period not to exceed three (3) minutes. Notwithstanding the foregoing, the City Council Members shall not use this comment period for serial discussions or debate between members on City business matters not properly agendized. The City Attorney shall be responsible for regulating this aspect of the proceeding.)

7. CITY MANAGER REPORT (information only)
8. REPORTS REGARDING AD HOC, ADVISORY, STANDING, OR OTHER COMMITTEE MEETINGS

9. WAIVER OF FULL READING OF RESOLUTIONS AND ORDINANCES - NONE

(Consideration to waive full text reading of all Resolutions and Ordinances by single motion made at the start of each meeting, subject to the ability of the City Council / Agency to read the full text of selected resolutions and ordinances when the item is addressed by subsequent motion.)

(COUNCIL / AGENCY)

10. CONSENT CALENDAR

(Items under the Consent Calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council / Agency Member so requests, in which event the item will be removed from the Consent Calendar and considered separately.)

A. Consideration to Review and Approve the Draft Minutes of October 1, 2019, for the Regular Meeting of the City Council and the Joint Meeting of the City of Cudahy as Successor Agency and Housing Successor Agency to the Cudahy Development Commission (page 9)

*Presented by Assistant City Clerk*

**Recommendation:** The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for October 1, 2019.

11. PUBLIC HEARING - NONE

12. BUSINESS SESSION

A. Consideration and Approval of a Proposed Contract Agreement for Construction Services for the Clara & Cudahy Park Restroom Rehabilitation Project Funded Through the City’s Community Development Block Grant (CDBG) Program (page 19)

*Presented by Assistant Engineer*

**Recommendation:** The City Council is requested to award a Section 3 Contract for Construction Services for the Clara & Cudahy Park Restroom Rehabilitation Project funded through the Community Development Block Grant (CDBG) to RS Construction & Development, Inc. in an amount not to exceed $288,556.
13. COUNCIL DISCUSSION

A. Council Member Garcia
   
   i. Cudahy Skate Park Renovation Project

B. Council Mayor Gonzalez
   
   i. Eviction Tracking

C. Vice Mayor Alcantar
   
   i. Tenant Protection

RECESS TO CLOSED SESSION

This is the time at which the City Council will meet in closed session to go over items of business on the closed session agenda. It should be noted that Councilman Guerrero will be participating from Bedwell Hall via teleconference. At this time, all persons other than Councilman Guerrero and City personnel authorized by either the City Manager or the City Attorney will not be allowed to remain in Bedwell Hall. Once closed session is completed and the City Council returns from closed session into open session, members of the public may then reenter the Council Chamber to rejoin the proceedings.

14. CLOSED SESSION

A. Closed Session Pursuant to Government Code Section 54957 – Public Employee Performance Evaluation
   Title of Employee: City Manager

B. Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiator
   City’s Designated Representative: Victor Ponto, City Attorney
   Unrepresented Employee: City Manager

C. Closed Session Pursuant to Government Code Section 54957.6(a) – Conference with Labor Negotiator Regarding Represented Employees
   City’s Designated Representative(s) for Negotiations: City Manager Jose E. Pulido and Special Counsel Oliver Yee
   Employee Organization: Cudahy Miscellaneous Employees Association (CMEA)

D. Closed Session Pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators
   Property Location:
   Site No. 1 Elizabeth Street Residential Property
5256 Elizabeth Street APN: 6224-001-014
5260 Elizabeth Street APN: 6224-001-015

Successor Agency Negotiator: Jose Pulido, Executive Director, Dave Gondek, Deputy City Attorney, Victor Ponto, City Attorney
Negotiating parties: Chief Administrative Officer
Under Negotiation: Price and Terms

E. Closed Session Pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators

Property Location:
Site No. 2 Atlantic Avenue/Santa Ana Street Commercial Property
4734 Santa Ana Street APN: 6224-018-008
8110 South Atlantic Avenue APN: 6224-018-071
8100 South Atlantic Avenue APN: 6224-018-068
Santa Ana Street APN: 6224-018-070
4720 Santa Ana Street APN: 6224-018-069

Successor Agency Negotiator: Jose Pulido, Executive Director, Dave Gondek, Deputy City Attorney, Victor Ponto, City Attorney
Negotiating parties: Chief Administrative Officer
Under Negotiation: Price and Terms

F. Closed Session Pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators

Property Location:
Site No. 3 Santa Ana Street Residential Property
4610 Santa Ana Street APN: 6224-019-014

Successor Agency Negotiator: Jose Pulido, Executive Director, Dave Gondek, Deputy City Attorney, Victor Ponto, City Attorney
Negotiating parties: Chief Administrative Officer
Under Negotiation: Price and Terms

G. Closed Session Pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators

Property Location:
Site No. 4 Atlantic Avenue/Cecilia Street Commercial Property
8135 South Atlantic Avenue APN: 6224-022-001
4629 Cecilia Street APN: 6224-022-004
8201 South Atlantic Avenue APN: 6224-022-002
8221 South Atlantic Avenue APN: 6224-022-012
4633 Cecilia Street APN: 6224-022-003
Successor Agency Negotiator: Jose Pulido, Executive Director, Dave Gondek, Deputy City Attorney, Victor Ponto, City Attorney
Negotiating parties: Chief Administrative Officer
Under Negotiation: Price and Terms

H. Closed Session Pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators

Property Location:
Site No. 5 Atlantic Avenue/Patata Street Commercial Property
4819 Patata Street APN: 6224-034-014
8420 South Atlantic Avenue APN: 6224-034-032 APN: 6224-034-040
Patata Street APN: 6224-034-041

Successor Agency Negotiator: Jose Pulido, Executive Director, Dave Gondek, Deputy City Attorney, Victor Ponto, City Attorney
Negotiating parties: Chief Administrative Officer
Under Negotiation: Price and Terms

I. Closed Session Pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators

Property Location:
Site No. 6 Atlantic Avenue/Clara Street Commercial Property
4613 Clara Street APN: 6226-022-002
7660 South Atlantic Avenue APN: 6226-022-008
7630 South Atlantic Avenue APN: 6226-022-019 APN: 6226-022-020
7638 South Atlantic Avenue APN: 6226-022-023
7644 South Atlantic Avenue APN: 6226-022-022
No address APN: 6226-022-021 APN: 6226-022-024

Successor Agency Negotiator: Jose Pulido, Executive Director, Dave Gondek, Deputy City Attorney, Victor Ponto, City Attorney
Negotiating parties: Chief Administrative Officer
Under Negotiation: Price and Terms

RECONVENE TO OPEN SESSION

15. CLOSED SESSION ANNOUNCEMENT

16. ADJOURNMENT
I, Richard Iglesias, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted at Cudahy City Hall, Bedwell Hall, Clara Park, Lugo Park, and the City's Website not less than 72 hours prior to the meeting. A copy of said Agenda is on file in the City Clerk's Office.

Dated this 11th day of October 2019

[Signature]

Richard Iglesias
Assistant City Clerk
STAFF REPORT

Date: October 15, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Richard Iglesias, Assistant City Clerk
Subject: Consideration to Review and Approve the Draft Minutes of October 1, 2019, for the Regular Meeting of the City Council and the Joint Meeting of the City of Cudahy as Successor Agency and Housing Successor Agency to the Cudahy Development Commission

RECOMMENDATION

The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for October 1, 2019.

BACKGROUND / ANALYSIS

Historically

The Municipal Clerk is one of the oldest professions in government, dating back to 1272 A.D., originating in England. The record keeper then was called Remembrancer; an English official whose job was to remind the Lord Treasurer and Barons of Court, of business pending.

Years later in the 1600’s when early colonist came to America, the office of the Clerk was one of the first offices to be established. Over the years the City Clerk’s office has become the core for local government, and the liaison to the residents of the Community. The Municipal Clerk (City Clerk) is the record keeper of a City’s recorded History.

William Bennett Munro a Canadian historian and political scientist, who taught at Harvard University and the California Institute of Technology, stated in one of his first textbooks written: “No other office in municipal service has so many contacts. It serves the Mayor, the City Council, the City Manager (when there is one), and all administrative departments,
without exception. All of them call upon it, almost daily, for some service or information. Its work is not spectacular, but it demands versatility, alertness, accuracy, and no end of patience. The public does not realize how many loose ends of city administration this office pulls together.”

Moving forward to the present time, the City Clerk’s office today is generally responsible for keeping record of City Council meetings; agreements; recordings of official documents; legal advertisements; municipal elections; commissions and committees current files; claims against the city; and other legal or official documents.

City Clerks in General Law cities are required to keep a record (minutes) of the proceedings of Council meetings (Government Code Sections 36814 and 40801). Minutes are the official record of a meeting which provides a record of the Council’s decisions and actions.

CONCLUSION

City Council is requested to approve the attached City Council / Agency Draft Minutes of the proceedings of October 1, 2019, City Council meeting.

FINANCIAL IMPACT

No Financial Impact.

ATTACHMENT

A. Draft Minutes October 1, 2019
B. Resolution No. 16-38, approving the City Clerk’s use of Summary Action Minutes as the Official Record of the City Council proceedings.
MINUTES

CUDAHY CITY COUNCIL REGULAR MEETING and
CITY OF CUDAHY AS SUCCESSOR AGENCY and
HOUSING SUCCESSOR AGENCY TO THE CUDAHY
DEVELOPMENT COMMISSION JOINT MEETING

October 1, 2019 6:30 P.M.

1. CALL TO ORDER

Mayor / Chair Gonzalez called the meeting to order at 6:33 p.m.

2. ROLL CALL

PRESENT: Council / Agency Member Guerrero
Council / Agency Member Lozoya
Vice Mayor / Vice Chair Alcantar
Mayor / Chair Gonzalez

ABSENT: Council / Agency Member Garcia

ALSO PRESENT: City Manager Jose E. Pulido, City Attorney, Martin De Los Angeles,
Assistant City Clerk, Richard Iglesias, Finance Director, Steven Dobrenen
and Junior Deputy City Clerk, Andres Rangel.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Alcantar.

4. PRESENTATIONS - NONE

5. PUBLIC COMMENTS

Jack Guerrero, spoke against the City’s alleged insufficient internal control environment. He cited the latest list from the California State Auditor ranking the City in the bottom seven in the state with the highest evaluation of risk with the potential of waste, fraud, abuse, and mismanagement, reflecting years of severe financial mismanagement. He further cited the OC Register, reporting on Cudahy for its evaluation by the California State Auditor. He further cited the City developing a remediation plan to address such financial deficiencies including highlighting tasks to be performed as well as milestones and timelines of objectives to be completed, as well as Council preparing periodic updates of implementation progress.

Marcos Oliva, asked Council why there was not a request for qualifications for the public hearing item. He further questioned business session item 12A, citing most cities appointing city clerks by Council. He explained a Council appointed city clerk maintains checks and balances, serving residents as an independent body.

Pamela Munguia, asked the city attorney the legal grounds the Council has to restrict public comment speech, not allowing residents to speak against specific Council members. She cited San Bernardino resident filing a lawsuit against the city for similar reasons and winning the case. She reminded Council the law protects residents’ freedom to speak against Council members
when a resident holds grievance. She went on to speak in regards to public hearing item 11A, arguing City Council should not grant the City Manager more authority to execute negotiations and programs that are in the public hearing item. She referenced Cudahy’s past Council bodies giving too much power to its city manager.

6. CITY COUNCIL COMMENTS

Council Member Guerrero, in Spanish, Mr. Guerrero reiterated against the City’s alleged insufficient internal control environment. He cited the latest list from the California State Auditor ranking the City in the bottom seven in the state with the highest evaluation of risk with the potential of waste, fraud, abuse, and mismanagement, reflecting years of severe financial mismanagement. He further cited the OC Register, reporting on Cudahy for its evaluation by the California State Auditor. He reminded residents that two Council members admitted to accepting money from developers in a previous meeting. He further commented both Council members went on to vote in favor of that developer's project despite not conducting an environmental or public safety analysis and overwhelming resident backlash against the project. He called for a forensic audit from an impartial third-party state auditor. He asked residents interested in signing a petition calling for an audit from the state auditor to contact him or other watchdog residents in the community. He further asked City staff to explain how it is planning to store cannabis proceeds, explaining such funds cannot be stored at a federally regulated bank.

Vice Mayor Alcantar, directed City staff to add a discussion item for tenant protection. She explained her meeting with local schools in Cudahy and how they can be involved with the community as well as talked about her meeting with Ms. Jackie Goldberg. She further highlighted the Movie Night event and concluded her comments by announcing the Walk to School Event.

Mayor Gonzalez, directed staff to add a discussion item regarding eviction tracking, as well as how the City can ensure their rights are being protected. He reported out of the Santa Ana Railway project. He further commented about a Council financial retreat, and asked the City attorney to address Mr. Guerrero’s concerns about storing cannabis proceeds at federally regulated banks. He continued his comments by discussing future development projects in the City, specifically on Atlantic corridor. He concluded his comments by announcing plans to change East Los Angeles College’s satellite campus in South Gate to South East Los Angeles College.

7. CITY MANAGER REPORT (information only)

8. REPORTS REGARDING AD HOC, ADVISORY, STANDING OR OTHER COMMITTEE MEETINGS

Vice Mayor Alcantar reported on Hub Cities Consortium Committee

Mayor Gonzalez reported on plans to change East Los Angeles’s satellite South Gate campus to South East Los Angeles College.

9. WAIVER OF FULL READING OF RESOLUTIONS AND ORDINANCES

Motion: It was moved by Vice Mayor Alcantar and seconded by Mayor Gonzalez to approve the waiver of full reading of Resolutions and Ordinances. The motion carried (2-0-1) by the following roll call vote.

AYES: Alcantar and Gonzalez
NOES: None
ABSENT: Garcia
10. CONSENT CALENDAR

A. Consideration to Review and Approve the Draft Minutes of September 17, 2019, for the Regular Meeting of the City Council and the Joint Meeting of the City of Cudahy as Successor Agency and Housing Successor Agency to the Cudahy Development Commission

Presented by the Assistant City Clerk

The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for September 17, 2019.

Motion: It was moved by Vice Mayor Alcantar and seconded by Mayor Gonzalez to review and approve the City Council / Successor Agency Draft Minutes for September 17, 2019. The motion carried (3-0-1) by the following roll call vote.

AYES: Lozoya, Alcantar, and Gonzalez
NOES: None
ABSENT: Garcia
ABSTAIN: Guerrero

11. PUBLIC HEARING

A. Approving Go Green Consultants, LLC to prepare and implement an Energy Assets Management Program for the City of Cudahy and Authorizing the City Manager to Negotiate and Execute an Energy Services and Performance Agreement and possible Abatement Lease for Capital Improvements Citywide

The City Council is requested to approve the Selection of Go Green Consultants, LLC and Authorize the City Manager to Negotiate and Execute a Program Development Agreement to prepare an Integrated Energy Assessment for the City of Cudahy and Execute definitive Agreements for Work to be Completed.

MAYOR GONZALEZ OPENED THE FLOOR FOR PUBLIC COMMENT AT 8:21 P.M.

Marcos Oliva, commented Council should have required to submit a Request for Qualifications for this project. He further commented that it is important to know what others have to say that are in the field, despite differences in cities. He also highlighted that the City should be precautious as this is not a grant, it is a loan, and therefore the $3.5 million needs to be paid back.

Marcos Covarrubias, spoke in favor of item 11A. He asked Council that the loan could be paid through cannabis revenue.

Pamela Munigua, reminded Council that the item is accumulating $3.5 million worth of debt, which is a loan the City cannot afford. She further commented projections can be inaccurate, citing cannabis revenue projections in the past. She did not agree with the item’s urgency, emphasizing missing the deadline, as she feels such strict last-minute timelines lead to rash decision making. She concluded her comments by arguing that City facility improvement projects will not bring revenue.
Paul E. Galindo clarified that the item 11A will save the City money in energy costs, and those savings will pay back the loan. He further commented that the loan has already been pre-approved despite difficulties in having the project financed.

Carmen Beltran, asked Council where the alleged $7 million savings fund are, arguing that fund cannabis revenue could be used to fund this project. She concluded her comments by asking Council not to get further in debt citing the California State Auditor’s list ranking City in the bottom 7 cities with high mismanagement.

MAYOR GONZALEZ CLOSED THE FLOOR FOR PUBLIC COMMENT AT 8:43 P.M.

Motion: It was moved by Council Member Guerrero, and seconded by Vice Mayor Alcantar to move forward with conducting an Investment Grade Audit (IGA), subject to City Attorney’s office review, and present an IGA findings report and/or update to the City Council, as well as have Council approve all matters relating to any debt issuance, agreements, debt servicing, and/or managerial approval. The motion carried (4-0-1) by the following roll call vote.

AYES: Guerrero, Lozoya, Alcantar, and Gonzalez
NOES: None
ABSENT: Garcia
ABSTAIN: None

12. BUSINESS SESSION

A. Approve First Reading of Ordinance No. 702 Amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code Relating to the Authority of the City Manager to Appoint the City Clerk for the City of Cudahy

Presented by the City Attorney’s Office

The City Council is requested to approve first reading of Ordinance No. 702 amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code relating to the authority of the City Manager to appoint the City Clerk for the City of Cudahy.

Motion: It was motioned by Mayor Gonzalez and Seconded by Council Member Lozoya to table this item until the State Auditor makes a presentation regarding City Clerk appointment. The motion carried (4-0-1) by the following roll call vote.

AYES: Guerrero, Lozoya, Alcantar, and Gonzalez
NOES: None
ABSENT: Garcia
ABSTAIN: None

13. COUNCIL DISCUSSION

Council Member Garcia

i. Cudahy Skate Park Renovation Project

14. CLOSED SESSION

A. Closed Session Pursuant to Government Code Section 54957 – Public Employee Performance Evaluation
Title of Employee: City Manager

B. Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators
   Agency designated representative: Victor Ponto, City Attorney
   Unrepresented employee: City Manager

C. Closed Session Pursuant to Government Code Section 54957.6(a) – Conference with Labor Negotiator Regarding Represented Employees
   City’s Designated Representative(s) for Negotiations: City Manager Jose E. Pulido and Special Counsel Oliver Yee
   Employee Organization: Cudahy Miscellaneous Employees Association (CMEA)

CLOSED SESSION ANNOUNCEMENT

Deputy City Attorney Martin de los Angeles reported in regards closed session items and announced that regarding closed session item A and B, update was given but no final action was taken. Regarding closed session item C, update was provided, direction was given, but no final action was taken.

16. ADJOURNMENT

The City Council / Agency meeting was adjourned at 9:09 p.m.

Jose R. Gonzalez
Mayor

ATTEST:

Richard Iglesias
Assistant City Clerk
RESOLUTION NO. 16-38


WHEREAS, pursuant to Section 2.20.010(1) of the Municipal Code of the City of Cudahy, the City clerk is required to perform such duties as are set forth in the Government Code and in the City’s Municipal Code and as the City Council from time to time shall direct or authorize; and

WHEREAS, under Government Code Section 40801, the City Clerk is tasked with keeping accurate records of the proceeding of the legislative body; and

WHEREAS, pursuant to Government Code Section 36814, the City Council shall cause the City Clerk to keep a correct record of its proceedings;

WHEREAS, the City Clerk currently prepares and keeps full written minutes of the City Council’s meetings and proceedings; and

WHEREAS, instead of summary minutes, the City Council now wishes for the City Clerk to prepare and keep summary action minutes as the official record of its meetings or proceedings; and

BASED UPON THE ABOVE RECITALS, THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. The City Council hereby approves the use of summary action minutes as the official record of its meetings or proceedings in lieu of full form written minutes.

SECTION 3. This Resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Cudahy at its regular meeting on this 12th day of December, 2016.
ATTEST:

Richard Iglesias
Deputy City Clerk

STATE OF CALIFORNIA    )
COUNTY OF LOS ANGELES   )    SS:
CITY OF CUDAHY          )

I, Richard Iglesias, Deputy City Clerk of the City of Cudahy, hereby certify that the foregoing Resolution No. 16-38 was passed and adopted by the City Council of the City of Cudahy, signed by the Mayor and attested by the Deputy City Clerk at a regular meeting of said Council held on the 12th day of December, 2016, and that said Resolution was adopted by the following vote, to-wit:

AYES: Garcia, Markovich, Hernandez, Sanchez

NOES: None

ABSENT: None

ABSTAIN: Guerrero

Richard Iglesias
Deputy City Clerk
STAFF REPORT

Date: October 15, 2019
To: Honorable Mayor / Chair and City Council / Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Avant Garde Project Consultant/ Project Manager Consultant (Transtech)

Subject: Consideration and Approval of a Proposed Contract Agreement for Construction Services for the Clara & Cudahy Park Restroom Rehabilitation Project Funded Through the City’s Community Development Block Grant (CDBG) Program

RECOMMENDATION

The City Council is requested to award a Section 3 Contract for Construction Services for the Clara & Cudahy Park Restroom Rehabilitation Project funded through the Community Development Block Grant (CDBG) to RS Construction & Development, Inc. in an amount not to exceed $288,556.

BACKGROUND

1. On January 22, 2018, City Council adopted Resolution No. 18-02 that included $195,000 of Community Development Block Grant (CDBG) funds for the Clara & Cudahy Park Restroom Rehabilitation Project.

2. On November 28, 2018, the Los Angeles County Development Authority (LACDA) processed a time extension from 6/30/19 - 6/30/20 making the Clara & Cudahy Park Restroom Rehabilitation Project a two-year project.

3. On December 12, 2018, the City submitted a letter to the Los Angeles County Development Authority (LACDA) committing the drawdown of excess CDBG funds of $102,850 towards the Clara & Cudahy Park Restroom Rehabilitation Project.
4. On February 6, 2019, the City approved a Professional Services Agreement (PSA) with Transtech for Design Services for CDBG and CIP funded projects.

5. On May 2, 2019, acceptance of the PS&E Bid Package was received from the Los Angeles County Development Authority (LACDA) allowing the project to proceed to the advertisement stage of the bid process.

6. In June 2019, the City approved a Professional Services Agreement (PSA) with Transtech for Construction Management and Construction Inspection Services for CDBG and CIP funded projects.

7. As of June 30, 2019, the City successfully drew down over $27,000 in CDBG funds, thus preserving the City’s ongoing CDBG funding allocation.

8. On July 11, 2019, the project was successfully advertised in the Long Beach Press Telegram Newspaper

9. On July 30, 2019, a mandatory Pre-Bid meeting was conducted for the Clara & Cudahy Park Restroom Rehabilitation Project.

10. On August 20, 2019, a bid opening was conducted. The following three bids were received by the following contractors:

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>EZ Remodeling</td>
<td>$237,495</td>
</tr>
<tr>
<td>RS Construction</td>
<td>$288,556</td>
</tr>
<tr>
<td>AID Builders</td>
<td>$397,500</td>
</tr>
</tbody>
</table>

11. On August 22, 2019 the City’s Project Manager, Transtech, conducted a review and bid analysis of the bids submitted for compliance with the project specifications. After review, it was determined that the apparent lowest bidder, EZ Remodeling, Inc. did not provide the references required as part of its Bidder’s Proposal.

12. In September 2019, the City submitted a request to the Los Angeles County Development Authority (LACDA) committing the drawdown of excess CDBG funds from FY 18/19 of $111,386 towards the Clara & Cudahy Park Restroom Rehabilitation Project bringing the total budget to $409,236.

13. On September 30, 2019, a notice was sent to EZ Remodeling notifying them of the discrepancy and intent to disqualify their bid.
14. On October 2, 2019, an appeal letter was received by EZ remodeling. The letter was reviewed by the City’s Attorney’s Office, and they have concurred with Transtech’s determination.

**ANALYSIS**

Over the past couple of years, City staff has worked diligently to develop and establish projects that will benefit the community. As a result of public’s interest, the City Council directed staff to proceed with the Clara & Cudahy Park Restroom’s Rehabilitation Project.

The City solicited bid proposals for construction services by issuing a notice to contractors for the Clara & Cudahy Park Restroom Rehabilitation Project. The scope of work for this project includes: the removal of existing fixtures and the preparation of the area for improvements within the restroom facilities; installation of new plumbing fixtures, partitions, sealant of the park restroom floors with an epoxy, installation of new LED lighting; replacement of windows, new entry doors; ADA upgrades, and painting of interior of the park restroom facilities.

As a result of the apparent lowest bidder being disqualified, it is recommended that the contract is awarded to the second lowest bidder, RS Construction & Development, Inc. (the lowest responsive and responsible bidder) in the amount of $288,556. RS Construction & Development, Inc. bid was reviewed, references were checked, and CA/DIR licenses were verified as being active and current.

**CONCLUSION**

City Council approval of this contract would allow the City staff to move forward with the implementation Clara & Cudahy Park Restroom Rehabilitation Project, to be completed by mid-February 2020.

**FINANCIAL IMPACT**

The LACDA has allocated $409,236 to the subject project for construction costs, and construction management & inspection services. Accordingly, the project was included in the City’s budget and no General Fund monies are being used for this project.
ATTACHMENTS

A. Bid Opening Minutes from August 20, 2019
B. Contract Agreement to be Executed
# BID OPENING MINUTES

Contracting Agency: **City of Cudahy**  
Agency Representative: **Richard Iglesias, Assistant City Clerk**  
Project Name: **CLARA & CUDAHY PARK RESTROOM REHABILITATION PROJECT**  
CDBG Project No: **601979-18**  
Bid Opening Date: **August 20, 2019**  
Time of Bid Opening: **10:00 AM**  
Place of Bid Opening: **City Hall Chambers**

<table>
<thead>
<tr>
<th>NAME OF COMPANY</th>
<th>BID SUBMITTED</th>
<th>Amount of Bid</th>
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<tr>
<td><strong>RS Construction</strong></td>
<td>8/20/19</td>
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<td><strong>EZ Remodeling, Inc</strong></td>
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<tr>
<td><strong>AID Builders, Inc</strong></td>
<td>8/20/19</td>
<td>$397,500</td>
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## LATE BID SUBMISSION

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<td>Date</td>
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## CERTIFICATION

<table>
<thead>
<tr>
<th>AARON HERNANDEZ-TOBRES</th>
<th>TURN TIGMINO, CODE COORDINATOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITY ENGINEER</td>
<td>Witness (Name / Title)</td>
</tr>
<tr>
<td></td>
<td>Witness (Name / Title)</td>
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<table>
<thead>
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<th>Signature</th>
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<td>2/20/19</td>
<td>2/20/19</td>
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</table>

**BIDS OPENED BY:**

**RICHARD IGLESIAS, ASSISTANT CITY CLERK**
CITY OF CUDAHY

PUBLIC WORKS CONTRACT

CLARA & CUDAHY PARK RESTROOM REHABILITATION PROJECT
CDBG Project Number: 601979-18
Funded by CDBG

THIS AGREEMENT “Agreement” is made and entered into this ___ day of _________________________,
by and between the CITY OF CUDAHY, a Municipal Corporation located in the County of Los Angeles, State
of California hereinafter called CITY, and ____________________________, [a corporation/partnership/limited liability company corporation], located at
_____________________________ hereinafter called CONTRACTOR, collectively referred to as the
Parties.

RECITALS

CITY, by its Notice Inviting Bids, duly advertised for written bids to be submitted on or before
______________________________, for the following:

CLARA & CUDAHY PARK RESTROOM REHABILITATION PROJECT
CDBG Project Number: 601979-18
Funded by CDBG

in the City of CUDAHY, California, hereinafter called PROJECT.

At ________________ on said date, in the CUDAHY Council Chambers, said bids were duly opened.

At its regular meeting held on ________________________, the CITY Council duly accepted the bid of
CONTRACTOR for said PROJECT as being the lowest reasonable bid received and directed that a written
contract be entered into with CONTRACTOR.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein
contained, said parties do hereby agree as follows:

ARTICLE I – CONTRACT DOCUMENTS

The CONTRACT DOCUMENTS for the PROJECT shall consist of:

• document titled:

  CONTRACT DOCUMENTS PLANS AND SPECIFICATIONS
  for
  CLARA & CUDAHY PARK RESTROOM REHABILITATION PROJECT

Page: APPENDIX A.1
CDBG Project Number: 601979-18  
Funded by CDBG

- CONTRACTOR’s Proposal
- Section 3 Clause & Requirements
- Current Federal DOL Wage Decision
- Federal EEO and Affirmative Action Requirements

and all referenced specifications, details, standard drawings, and appendices, together with this contract and all required bonds, insurance certificates, permits, notices and declarations, affidavits, and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to insure its completion in an acceptable manner.

All of the above-mentioned documents are intended to complement the other documents so that any work called for in one, and not mentioned in the others, or vice versa, is to be executed the same as if mentioned in all of said documents. The document comprising the complete contract are hereinafter referred to as the CONTRACT DOCUMENTS and are incorporated herein by this reference and made and part hereof as though they were fully set forth herein.

All of the rights and obligations of the CITY and CONTRACTOR are fully set forth and described in the CONTRACT DOCUMENTS.

In the event there is a conflict between the terms of the Contract Documents, the more specific or stringent provision shall govern. City shall decide which option is the more specific or stringent provision.

ARTICLE II - AGREEMENT

For and in consideration of the payments and agreements be made and performed by CITY, CONTRACTOR hereby agrees to furnish all materials and perform all work required for the PROJECT and to fulfill all other obligations as set forth in the CONTRACT DOCUMENTS.

ARTICLE III - COMPENSATION

CONTRACTOR hereby agrees to receive and accept the total amount _______________________ Dollars ($________), based upon those certain unit prices set forth in CONTRACTOR’s Bid Schedule, a copy of which is attached hereto as Exhibit “A” and by this reference incorporated herein and made a part hereof, as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder.

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

The sum identified in Article III is not subject to escalation, the CONTRACTOR having satisfied himself with said CONTRACT price, which includes all labor and material increases anticipated throughout the duration of this CONSTRUCTION CONTRACT.

CITY shall retain five percent (5%) of said CONTRACT price until said time as the provisions of Article XIV herein have been met.

Progress payments shall be made in accordance with Section 9 of the Standard Specifications for Public Works as amended by the General Provisions and Special Provisions.

Upon receipt of a properly presented payment request, the Contract Officer shall process the payment request in accordance with Public Contracts Code Section 20104.50. The Contract Officer shall review the payment request as soon as possible. If the Contract Officer rejects the payment request, it shall be returned to the Contractor within seven days of its receipt by the City with an explanation for the reasons of its rejection. If the payment request is approved in writing by the Contract Officer, payment shall be made within thirty (30) days of receipt of an undisputed and properly presented payment request. Late payments shall bear interest at the legal rate of interest in accordance with Code of Civil Procedure 685.010. City shall pay Contractor a sum based upon ninety-five percent (95%) of the contract price apportionment of the labor and materials incorporated into the work under the contract during the period covered by said statement. The remaining five percent (5%) thereof shall be retained as performance security.

Substitution of Securities for Retention. The contractor may deposit securities in lieu of the 5% progress payment retentions in accordance with California Public Contracts Code 22300.

CITY’s obligation is payable only and solely from Community Development Block Grant (CDBG) funds appropriated from the United States Department of Housing and Urban Development (HUD) and for the purpose of this CONTRACT. All funds are appropriated every fiscal year beginning July 1. In the event this CONTRACT extends into the succeeding fiscal year and funds have not been appropriated, this CONTRACT will automatically terminate as of June 30 of the current fiscal year. The CITY will notify the CONTRACTOR in writing in ten (10) days of receipt of the non-appropriation notice.

ARTICLE IV - CONTRACTOR REPRESENTATIONS

CITY hereby promises and agrees to employ, and does hereby employ, CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for the said amounts set forth in Article III hereof, and hereby agrees to pay the same at the time, in the manner, and upon the conditions set forth in the CONTRACT DOCUMENTS.

In addition, CONTRACTOR hereby promises and agrees to comply with all of the provisions of both State and Federal law with respect to the employment of unauthorized aliens.

Should CONTRACTOR so employ such unauthorized aliens for the performance of work and/or services covered by this contract, and should the Federal Government impose sanctions against the CITY for such use of unauthorized aliens, CONTRACTOR hereby agrees to, and shall, reimburse CITY for the cost of all
such sanctions imposed, together with any and all costs, including attorney’s fees, incurred by the CITY in connection therewith.

Furthermore, CONTRACTOR hereby represents and warrants that it is not currently, and has not at any time within the past five (5) calendar years been, suspended, debarred, or excluded from participating in, bidding on, contracting for, or completed any project funded in whole or in part by any federally funded program, grant or loan, or any project funded in whole or in part by a program, loan or grant from the State of California, and that CONTRACTOR currently has and for the past five (5) calendar years has maintained in good standing, a valid California contractor’s license. CONTRACTOR agrees to complete and execute any statement or certificate to this effect as may be required by the City or by any federal or State of California program, loan or grant utilized on this PROJECT.

ARTICLE V – COMMENCEMENT DATE

CONTRACTOR shall commence work on the date specified in the Notice to Proceed to be issued to said CONTRACTOR by the Director of Public Works of CITY and shall complete work on the PROJECT within ______ working days after commencement.

ARTICLE VI – NO DISCRIMINATION

CONTRACTOR shall not discriminate in its recruiting, hiring, promotion, demotion or termination practices on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation in the performance of this CONTRACT and shall comply with the provisions of the California Fair Employment and Housing Act as set forth in Part 2.8 of Division 3, Title 2 of the California Government Code; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations issued pursuant to such acts and order.

CONTRACTOR hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 USCA 1101, et seq.), as amended; and, in connection therewith, shall not employ unauthorized aliens as defined therein. Should CONTRACTOR so employ such unauthorized aliens for the performance of work and/or services covered by this AGREEMENT, and should the Federal Government impose sanctions against the CITY for such use of unauthorized aliens, CONTRACTOR hereby agrees to, and shall, reimburse CITY for the cost of all such sanctions imposed, together with any and all costs, including attorney’s fees, incurred by the CITY in connection therewith.

ARTICLE VII – LABOR CODE REQUIREMENTS

Compliance with SB 854 Registration: This Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations. No prime contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. No prime contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code
section 1725.5. The Contractor will be required to post job site notices as described in 8 California Code of Regulation section 16451(d).

Contractor acknowledges that under California Labor Code sections 1810 and following, 8 hours of labor constitutes a legal day’s work. Contractor will forfeit as a penalty to City the sum of $25.00 for each worker employed in the execution of this Agreement by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code section 1810. (Labor Code § 1813).

Copies of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages for each craft, classification or type of worker needed to execute this Agreement will be made available upon request from the City Engineer’s Office.

Contractor must post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code § 1773.2). The Contractor shall post WH-1321 ENGLISH and WH-1321 SPANISH at the work site.

Contractor, and any subcontractor engaged by Contractor, must pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the contract. (Labor Code § 1774.) Contractor is responsible for compliance with Labor Code section 1776 relative to the retention and inspection of payroll records.

Contractor must comply with all provisions of Labor Code section 1775. Under Section 1775, Contractor may forfeit as a penalty to City up to $50.00 for each worker employed in the execution of the Contract by Contractor or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. Contractor may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

Nothing in this Contract prevents Contractor or any subcontractor from employing properly registered apprentices in the execution of the Contract. Contractor is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice’s work for every five hours of labor performed by a journeyman (unless an exception is granted under §1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.

This is a federally-assisted CONSTRUCTION CONTRACT. Federal Labor Standards Provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts will be enforced. In the event of a conflict between Federal and State wages rates, the higher of the two will prevail. Modification of Federal
Wage Rates published within ten (10) days prior to the scheduled Bid Opening date shall apply to the contract.

The Contractor shall submit payroll records to the City weekly for each week in which any contract work is performed. The Contractor is also responsible for the submission of payroll records by all its Subcontractors performing any contract work on this Project.

The payroll records submitted shall set out accurately and completely all of the information required to be maintained under Section 5.5(a)(3)(i) of 29 C.F.R. Part 5. Each payroll submitted shall be accompanied by a Statement of Compliance signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract, and shall certify the following:

- The payroll records for the payroll period contains the information required to be maintained under Section 5.5(a)(3)(i) of 29 C.F.R. Part 5, and that such information is correct and complete;
- Each employee employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 C.F.R. Part 3;
- Each employee has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

This information may be submitted in any form desired, however, Form WH-347 is provided as an optional template. The Contractor shall submit a Statement of Non-Performance for each week of work for which craft work was not performed.

The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

The Contractor shall submit copies of apprentice certification(s) for each apprentice performing work on the Contract to accompany the first payroll record in which that apprentice appears. The City will recognize apprentice certifications from the U.S. Department of Labor and the California Division of Apprenticeship Standards. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

The CONTRACTOR’s duty to pay State prevailing wages can be found under Labor Code Section 1770 et q. and Labor Code Sections 1775 and 1777.7 outline the penalties for failure to pay prevailing wages and employ apprentices including forfeitures and debarment.

The Contractor agrees that the City, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons, such as employee interviews. If any site visit is made by the City on the premises of the Contractor or any of its Subcontractors under this Contract, the Contractor shall provide and shall require its Subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of City representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Contractor or Subcontractor(s).

If the work involves excavation of any trench five feet or more in depth the contractor shall submit a detailed
plan of shoring, bracing, sloping or other provisions to be made for worker protection. Such plan shall be approved by a qualified representative of the City. (LC 6705).

ARTICLE VIII - PROVISIONS REQUIRED BY LAW

Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Project. Such laws, rules and regulations shall include, but not be limited to the following.

Contractor's License.

The Contractor shall possess a type ______________________ California Contractor's license at the time of award of the Contract.

Ineligible Contractor Prohibited.

Any contractor or subcontractor who is ineligible to perform work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code is prohibited from performing work under this Contract.

Unfair Business Practices Claims.

The Contractor or subcontractor offers and agrees to assign to the City 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. Section 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 City renders final payment to the Contractor without further acknowledgment by the parties. (Section 7103.5, California Public Contract Code.).

Hazardous Materials and Unknown Conditions.

A. CONTRACTOR shall, without disturbing the condition, notify CITY in writing as soon as CONTRACTOR, or any of CONTRACTOR's subcontractors, agents or employees have knowledge and reporting is possible, of the discovery of any of the following conditions:

1. The presence of any material that the CONTRACTOR believes is hazardous waste, as defined in Section 25117 of the Health and Safety Code;

2. Subsurface or latent physical conditions at the site differing from those indicated in the specifications; or,

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

B. Pending a determination by CITY of appropriate action to be taken, CONTRACTOR shall provide security measures (e.g., fences) adequate to prevent the hazardous waste or physical conditions from causing bodily injury to any person.
C. CITY shall promptly investigate the reported conditions. If CITY, through its Director of Public Works, or her designee, and in the exercise of its sole discretion, determines that the conditions do materially differ, or do involve hazardous waste, and will cause a decrease or increase in the CONTRACTOR’s cost of, or time required for, performance of any part of the work, then CITY shall issue a change order.

D. In the event of a dispute between CITY and CONTRACTOR as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the CONTRACTOR’s cost of, or time required for, performance of any part of the work, CONTRACTOR shall not be excused from any scheduled completion date, and shall proceed with all work to be performed under the Contract. CONTRACTOR shall retain any and all rights which pertain to the resolution of disputes and protests between the parties.

ARTICLE IX - INDEMNITY

CONTRACTOR shall assume the defense of and indemnify and save harmless the CITY, its elective and appointive boards, officers, agents and employees, and Design Engineer and Construction Manager from all claims, loss, damage, injury and liability of every kind, nature and description, directly or indirectly arising from the performance of the CONTRACTOR’s work, regardless of responsibility of negligence; and from any and all claims, loss, damage, injury and liability, howsoever the same may be caused, resulting directly or indirectly from the nature of the work covered by the contract, regardless of responsibility of negligence; provided

(a) That CITY does not, and shall not, waive any rights against CONTRACTOR which it may have by reason for the aforesaid hold-harmless AGREEMENT because of the acceptance by CITY or the deposit with CITY by CONTRACTOR, of any of the insurance policies hereinafter described in this AGREEMENT.

(b) That the aforesaid hold-harmless AGREEMENT by CONTRACTOR shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of CONTRACTOR, or any subcontractor, regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.
ARTICLE X - BONDS

Warranty & Guarantee

**New Materials.** Contractor guarantees that all materials and equipment furnished will be new unless otherwise specified in the Contract Documents.

**One Year Guarantee.** Contractor guarantees all materials and equipment furnished and Work performed for a period of one (1) year from the date of substantial completion is free from all defects due to faulty materials or workmanship. Contractor shall promptly make such corrections as may be necessary by reasons of such defects including the repairs of any damage to other property, whether real or personal. The City will give notice of observed defects with reasonable promptness. If Contractor fails to make such repairs, or other Work that may be made necessary by such defects, the City may do so and charge the Contractor the cost thereby incurred, plus 10% for administrative expenses. The Performance Bond shall remain in full force and effect through the guarantee period. Contractor shall execute the Public Improvement Warranty.

Bonds

Contractor shall provide a payment bond consistent with the terms of this section and City may not waive this requirement. Contractor shall also provide a performance bond consistent with the terms of this section, unless City waives such requirement in writing. Each bond shall (1) be in writing; (2) signed by at least one admitted surety insurer under oath; (3) if a bond is signed by more than one surety insurer, include a statement that the sureties are jointly and severally liable on the obligations required hereunder; (4) list the address at which the principal and surety/sureties may be served with notices, papers, and other documents under this chapter; (5) be in the form of a bond and not in a deposit in lieu of a bond; (6) be consistent with any other requirements of the City that reasonably relate to a guarantee that the project will be completed at no cost to the City.

**Payment Bond.** Contractor shall furnish and file with City a bond in the sum of one hundred percent (100%) of the Compensation. Consistent with Civil Code § 3248, the bond shall provide that if the Contractor or any subcontractors hired by Contractor fails to pay (1) any of the persons named in Civil Code § 3181; (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed under this Agreement; or (3) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Unemployment Insurance Code §13020 with respect to the work and labor that the sureties will pay for the same, and also, in case suit is brought upon the bond, a reasonable attorney’s fee, to be fixed by the court. The bond shall, by its terms, inure to the benefit of any of the persons named in Civil Code § 3181 so as to give a right of action to those persons or their assigns in any suit brought upon the bond. The bond provided under this section shall be released by written authorization of the City Engineer at the completion of the one year warranty period described in section 0, above, provided that Contractor is not in default on any provision of this Agreement.

**Performance Bond.** Contractor shall provide City with a bond in the sum of one hundred percent (100%) of the Compensation to guarantee the completion of the Work, to protect City if Developer is in default of this Agreement, and to secure Contractor’s one-year guarantee and warranty. The City Council may, in its sole and absolute discretion and upon recommendation of the City Engineer, partially release a portion or portions of the security provided under this section as the Public Improvements are accepted by City,
provided that Contractor is not in default on any provision of this Agreement. All security provided under this section shall be released at the end of the warranty period described in section 0, above, provided that Contractor is not in default on any provision of this Agreement.

ARTICLE XI - INSURANCE

CONTRACTOR shall not commence work under this contract until CONTRACTOR shall have obtained all insurance required by the CONTRACT DOCUMENTS and such insurance shall have been approved by CITY as to form, amount and carrier, nor shall CONTRACTOR allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved.

(a) COMPENSATION INSURANCE - CONTRACTOR shall take out and maintain, during the life of this contract, Worker’s Compensation Insurance for all of CONTRACTOR's employees employed at the site of improvement; and, if any work is sublet, CONTRACTOR shall require the subcontractor similarly to provide Worker’s Compensation Insurance for all of the latter’s employees, unless such employees are covered by the protection afforded by CONTRACTOR. If any class of employees engaged in work under this contract at the site of the PROJECT is not protected under any Workers’ Compensation law, CONTRACTOR shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. CONTRACTOR shall indemnify CITY for any damage resulting to it from failure of either CONTRACTOR or any subcontractor to take out or maintain such insurance.

(b) COMPREHENSIVE GENERAL LIABILITY, PRODUCTS/COMPLETED OPERATIONS HAZARD, COMPREHENSIVE AUTOMOBILE LIABILITY AND CONTRACTUAL GENERAL LIABILITY INSURANCE. CONTRACTOR shall take out and maintain during the life of this contract such comprehensive general liability, products/completed operations hazard, comprehensive automobile liability and contractual general liability insurance as shall protect CITY, its elective and appointive boards, officers, agents and employees, Design Engineer and Construction Manager, CONTRACTOR, and any subcontractor performing work covered by this contract, from claims for damage for personal injury, including death, as well as from claims for property damage which may arise from CONTRACTOR’s or any subcontractor’s operations under this contract, whether such operations be by CONTRACTOR or by any subcontractor, or by anyone directly or indirectly employed by either CONTRACTOR or any subcontractor, and the amounts of such insurance shall be as follows:

(1) Public Liability Insurance in an amount of not less than TWO MILLION DOLLARS ($2,000,000);

(2) Products/Completed Operations Hazard Insurance in an amount of not less than TWO MILLION DOLLARS ($2,000,000);
(3) **Comprehensive Automobile Liability Insurance** in an amount of not less than TWO MILLION DOLLARS ($2,000,000);

(4) **Contractual General Liability Insurance** in an amount of not less than TWO MILLION DOLLARS ($2,000,000).

A combined single limit policy with aggregate limits in an amount of not less than TWO MILLION DOLLARS ($2,000,000) shall be considered equivalent to the said required minimum limits set forth hereinabove.

(c) **PROOF OF INSURANCE** - The insurance required by this AGREEMENT shall be with insurers which are Best A rated, and California Admitted or better. The CITY and Design Engineer and Construction Manager shall be named as “additional insured” on all policies required hereunder, and CONTRACTOR shall furnish CITY, concurrently with the execution hereof, with satisfactory proof of carriage of the insurance required, and adequate legal assurance that each carrier will give CITY at least thirty (30) days’ prior notice of the cancellation of any policy during the effective period of the contract.

(d) **NOTICE TO COMMENCE WORK** - The CITY will not issue any notice authorizing CONTRACTOR or any subcontractor to commence work under this contract until CONTRACTOR has provided to the CITY the proof of insurance as required by subparagraph (c) of this article.

**ARTICLE XII - ATTORNEY FEES**

If either party to this Contract is required to initiate or defend, or is made a party to, any action or proceeding in any way connected with this Contract, the party prevailing in the final judgment in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to reasonable attorney’s fees and costs. Attorney’s fees shall include reasonable costs for investigating such action.

**ARTICLE XIII - LIQUIDATED DAMAGES**

The parties agree that it would be impractical and extremely difficult to fix the actual damages to the CITY in the event the PROJECT is not commenced and/or completed on or before the dates specified for commencement and completion of the PROJECT in the CONTRACT DOCUMENTS. The parties have considered the facts of a breach of this contract and have agreed that the liquidated damages sum hereinafter set forth is reasonable as liquidated damages in the event of a breach, and that said sum shall be presumed to be the amount of the damages sustained by the CITY in the event such work is not begun and/or completed and accepted by the times so specified in the CONTRACT DOCUMENTS, the sum of ____________ Dollars ($__________) shall be presumed to be the amount of damages suffered by the CITY for each calendar day’s delay in the starting and/or completion and acceptance of said PROJECT after the dates specified in the CONTRACT DOCUMENTS for the start and/or completion thereof, and CONTRACTOR hereby agrees to pay said sum of ____________ Dollars ($__________) as liquidated damages for each calendar day of delay in the starting and/or completing and acceptance of said PROJECT beyond the dates specified in the CONTRACT DOCUMENTS. Any and all such liquidated damages assessed
shall be done so in accordance with that certain edition of the *Standard Specification for Public Works Construction* currently in effect on the execution date of this CONTRACT. The payment of such liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code § 3275 or § 3369.

CONTRACTOR: ___________________________  CITY OF CUDAHY
a California Corporation  a Municipal Corporation

by:___________________________    by:____________________________
   President          Mayor

**ARTICLE XIV - NOTICE OF COMPLETION**

Upon completion of PROJECT and acceptance of same by the CITY Council, the CITY Manager shall have cause to be recorded a Notice of Completion with the office of the Los Angeles County Recorder; and, after thirty-five (35) days from the date said Notice of Completion is recorded, the Director of Finance of CITY shall release the funds retained pursuant to Article III hereof; provided there have been no mechanics’ liens or stop notices filed against said work which have not been paid, withdrawn or eliminated as liens against said work.

**ARTICLE XV - NO - ASSIGNMENT**

This contract shall not be assignable, either in whole or in part, by the CONTRACTOR without first obtaining the written consent of the CITY thereto.

**ARTICLE XVI - CUMULATIVE RIGHTS**

The provisions of this AGREEMENT are cumulative and in addition to and not in limitation of any rights or remedies available to CITY.

**ARTICLE XVII - TERMINATION**

A. Termination for Convenience. The CITY may terminate this contract, in whole or in part, with 30 days written notice to the CONTRACTOR when it is in the CITY’s best interest. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to CITY to be paid the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to the CITY, the CONTRACTOR will account for the same, and dispose of it in the manner the CITY directs. The CONTRACTOR may terminate this contract, in whole, with 90 days written notice to the CITY.

B. Termination for Default. If at any time the CONTRACTOR is determined to be in material breach of the Contract, a Notice of Potential Breach of Contract shall be prepared by the CITY, and will be served upon the CONTRACTOR and its sureties. If the CONTRACTOR continues to neglect or refuses to comply
with the Contract or with the Notice of Potential Breach of Contract to the satisfaction of the CITY within the time specified in such Notice, the CITY shall have the authority to terminate the Contract for this Project.

C. Waiver of Remedies for any Breach. In the event that CITY elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Contract, such waiver by CITY shall not limit CITY’s remedies for any succeeding breach of that or of any other term, covenant, or condition of the Contract.

ARTICLE XVIII – FEDERAL REQUIREMENTS

Notwithstanding any other provision of this Agreement, if the construction work covered under this Agreement is financed in whole or in part with assistance provided under a program of the U.S. Department of Housing and Urban Development or some other source of Federal funding, Contractor shall also comply with and cause its subcontractors to comply with the requirements of the Davis-Bacon Act (40 U.S.C. 276 et seq.). The Davis-Bacon Act requires the payment of wages to all laborers and mechanics at a rate not less than the minimum wage specified by the Secretary of Labor in the periodic wage rate determinations as described in the Federal Labor Standards Provisions (HUD-4010) available from the Agency’s Compliance Division. If Contractor is required to comply with the Davis-Bacon Act, Contractor shall pay the higher of Davis-Bacon Act or state prevailing wages, on a trade-by-trade basis. By entering into this Agreement, Contractor certifies that it is not a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or if HUD funds are involved, to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24. Contractor agrees to include, or cause to be included, the above provision, to be applicable to contractors and subcontractors, in each contract and subcontract for work covered under this Agreement.

Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

The City, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents papers and records of the Contractor and any subcontractors which are directly pertinent to this Agreement, for the purpose of making audit, examination, excerpts and transcriptions. Contractor shall maintain all required records for three years after City makes final payments and all other pending matters are closed.

Contractor shall comply with the Copeland “Anti-Kick Back” Act, 18 U.S.C. §874, as supplemented in Department of Labor regulations. (29 C.F.R. part 3.)

Contractor shall ensure compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327 – 33, as supplemented by Department of Labor regulations. See 29 C.F.R. part 5.

Contractor and any subcontractors must comply with Executive Order 11246 as amended by Executive Order 11375 and as supplemented in Department of Labor regulations. (41 C.F.R. part 3.)
If the Compensation exceeds $100,000, Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency (EPA) regulations, which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. (See e.g. 47 C.F.R. §18.36(i)(12).)

If the Compensation exceeds $100,000 for construction or facility improvements, Contractor must observe the building requirements contained in Attachment B of OMB Circular A-110.

--------SIGNATURES ON FOLLOWING PAGE--------
IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed on the _____ day of ____________________, 20__, by their respective officers duly authorized in that behalf.

CITY OF CUDAHY
a Municipal Corporation

by:___________________________
   ____________________________, Mayor

CONTRACTOR
a California Corporation

by:___________________________
   ____________________________, President

   ____________________________, Secretary

ATTEST:

by:___________________________
   ____________________________, City Clerk

APPROVED AS TO FORM

by:___________________________
   ____________________________, City Attorney
On ________________________, 200__, the City of CUDAHY accepted as complete and meeting the standards of City, the following public improvement(s):

_____________________________________________________________________________________
_____________________________________________________________________________________
__________________________________________, built and constructed by or for _____________________,
(“Contractor”)

Contractor hereby warrants and guarantees the aforementioned public improvements as to the material used and workmanship performed for a period of one (1) year following the date set forth above.

In the event of a defect, malfunction, or failure to conform to the improvement specifications and all applicable local standards, the Contractor shall repair or replace said improvements at Contractor's own and sole expense within a reasonable time from notice of the defect from City. Should Contractor fail to cure any defect within a reasonable period of time, Contractor agrees to reimburse City for any and all costs of City's efforts to cure any defect once City has provided notice to the Contractor of the defect and the City's intent to cure such defect.

Should litigation be necessary to enforce the provisions of this warranty, the prevailing party shall be entitled to reimbursement for attorneys fees and court and related costs.

Executed at _________________________, California, on the day and year first written above.

CONTRACTOR

By:__________________________
Signature

By:__________________________
(Typed Name)

Its:__________________________
Title

By:__________________________
Signature

By:__________________________
(Typed Name)

Its:__________________________
Title

[NOTARY REQUIRED]
FAITHFUL PERFORMANCE BOND
CLARA & CUDAHY PARK RESTROOM REHABILITATION PROJECT
CDBG Project Number: 601979-18
Funded by CDBG

KNOW ALL MEN BY THESE PRESENTS that __________________________, as CONTRACTOR and __________________________, as SURETY, are held and firmly bound unto the City of CUDAHY, in the penal sum of __________________________dollars ($ ), which is 100 percent of the total contract amount for the above stated project, for the payment of which sum, CONTRACTOR and SURETY agree to be bound, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas CONTRACTOR has been awarded and is about to enter into the annexed Contract with the City for the above stated project, if CONTRACTOR faithfully performs and fulfills all obligations under the contract documents in the manner and time specified therein, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of the City; provided that any alternations in the obligations or time for completion made pursuant to the terms of the contract documents shall not in any way release either CONTRACTOR or SURETY, and notice of such alternations are hereby waived by SURETY.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this ____ day of _____________, 20__.

CONTRACTOR* _________________________________________________________________________

________________________________________________________________________

SURETY* ____________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

* Provide CONTRACTOR/SURETY name, address and telephone number and the name, title, address and telephone number for authorized representative.

Subscribed and sworn to this _____ day of _____________, 20__.

NOTARY PUBLIC: ____________________________________________________________________
MATERIAL AND LABOR BOND
CLARA & CUDAHY PARK RESTROOM REHABILITATION PROJECT
CDBG Project Number: 601979-18
Funded by CDBG

KNOW ALL MEN BY THESE PRESENTS that ________________________________, as CONTRACTOR and ________________________________, as SURETY, are held and firmly bound unto the City of CUDAHY, in the penal sum of ________________________________ dollars ($ ), which is 100 percent of the total contract amount for the above stated project, for the payment of which sum, CONTRACTOR and SURETY agree to be bound, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas CONTRACTOR has been awarded and is about to enter into the annexed Contract with the City for the above stated project, if CONTRACTOR faithfully performs and fulfills all obligations under the contract documents in the manner and time specified therein, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of the City; provided that any alternations in the obligations or time for completion made pursuant to the terms of the contract documents shall not in any way release either CONTRACTOR or SURETY, and notice of such alternations are hereby waived by SURETY.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this ____ day of ______________, 20__.  

CONTRACTOR* ____________________________________________________________  
________________________________________________________  

SURETY*  
________________________________________________________  

* Provide CONTRACTOR/SURETY name, address and telephone number and the name, title, address and telephone number for authorized representative.

Subscribed and sworn to this ______ day of ______________, 20__.  

NOTARY PUBLIC: _________________________________________________________