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, September 17, 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 two-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

   Anthony Rendon’s Office, Adrian Landa, Water Resources Consultant (WRD), Maria Elena Kennedy, Planning Commissioner, Gustavo Mendez reporting on Tract 349 Water Company.

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 two (2) 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

(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)

Recommendation: Approve the Waiver of Full Reading of Resolutions and Ordinances.

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 August 20, 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 Assistant City Clerk

Recommendation: The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for August 20, 2019.

B. Consideration to Approve Proposition A Exchange Agreement with Palos Verdes Peninsula Transit Authority

Presented by Finance Manager

Recommendation: The City Council is requested to approve the exchange of $449,000 in available Proposition A (Prop A) funds with the Palos Verdes Peninsula Transit Authority (PVPTA) which was included in the Fiscal Year (FY) 2019-20 City Budget.

C. Consideration and Approval of a Proposed Second Amendment to the Professional Services Agreement (PSA) With ejma Planning + Development Services (ejma)
**Presented by City Manager**

**Recommendation:** The City Council is requested to consider and approve a proposed Second Amendment to ejma Planning + Development Services (ejma) contract extending the term by one (1) years from September 26, 2019 to September 25, 2020 and increasing the original Professional Services Agreement (PSA) amount to $660,000.

**D.** Consideration and approval of a Proposed Second Amendment to the First Amended and Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services *(page 55)*

**Presented by City Manager**

**Recommendation:** The City Council is requested to consider and approve a Proposed Second Amendment to the First Amended Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services by one year from September 26, 2019 through September 25, 2020 for the new not to exceed PSA amount of $270,000.

11. PUBLIC HEARING – NONE

12. BUSINESS SESSION

A. **Discuss and Consider Placing a Resolution on the Council Agenda, Amending the Rules Regarding Public Comment Speaking Time at City Council Meetings** *(page 113)*

**Presented by Assistant City Clerk**

**Recommendation:** The City Council is requested to discuss, and consider placing a Resolution on the Council agenda amending the rules regarding public comment speaking time at City Council Meetings.

13. COUNCIL DISCUSSION

A. Council Member Guerrero

   i. Audit for City’s Internal Controls
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(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)

RECONVENE TO OPEN SESSION

15. CLOSED SESSION ANNOUNCEMENT

16. ADJOURNMENT

I, Andres Rangel, 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 13th day of September 2019

[Signature]
Andres Rangel
Junior Deputy City Clerk
Date: September 17, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Richard Iglesias, Deputy City Clerk
Subject: Consideration to Review and Approve the Draft Minutes of August 20, 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 August 20, 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 August 20, 2019, City Council meeting.

**FINANCIAL IMPACT**

No Financial Impact.

**ATTACHMENT**

A. Draft Minutes August 20, 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

August 20, 2019 6:30 P.M.

1. CALL TO ORDER

Mayor / Chair Gonzalez called the meeting to order at 6:32 p.m.

2. ROLL CALL

PRESENT: Council / Agency Member Garcia (Arrived at 6:51 p.m.)
Council / Agency Member Guerrero
Council / Agency Member Lozoya
Vice Mayor / Vice Chair Alcantar
Mayor / Chair Gonzalez

ABSENT: None

ALSO PRESENT: City Manager Jose E. Pulido, City Attorney, Marc Tran, 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

Tania Castaneda, introduced herself as the new relations manager for Republic Services now acting as liaison for the City.

Jessica Prietto, spoke on behalf of rent stabilization in the City of Cudahy, making a breakdown of the burden rent is to Cudahy residents’ overall income. She went on to highlight the consequences of those who suffer from increasingly high rent such as displacement. She concluded her comments by asking for more protections for the residents of Cudahy.

Hannali Paniagia, announced an event on behalf of the Office of County Supervisor Hilda Solis.

Jack Guerrero, announced that the latest status update from the California State Auditor, placed the City of Cudahy as one of the worst cities in California with highest possible evaluation of risk. He quoted the state auditor's that said Cudahy has a high potential for waste, fraud, abuse, and mismanagement. He further quoted the Orange County Register reporting on Cudahy's financial uncertainty. He went on to call his fellow Council Members to move forward with conducting a forensic audit by an impartial third-party government authority. He told Council a watchdog group
of residents in the community are coordinating a petition to bring such an audit if the Council fails to move forward with the request. He concluded his comments by expressing his concerns about the financial handling of proceeds stemming from cannabis businesses.

Javier Flores, agreed with Council Member Jack Guerrero, calling for a forensic audit. He went on to speak in favor of increasing public comment time to three minutes. He spoke against the multifamily apartment complex on Elizabeth Street, noting the various residents who have also expressed their concerns regarding this project, specifically the overflow of traffic and the dangerous conditions increase in traffic will have on schools during peak traffic hours. He urged the Vice Mayor and other members of the Council to vote against the project. He concluded his comments by urging the Council needs to start legislation on behalf of its residents, calling for more recreation and senior services.

Naui Huitzilopochtli, spoke against Council Member Guerrero for his affiliations with white supremacists and anti-immigration groups. He went on to urge residents to rally against Council Member Guerrero. He further argued Mr. Guerrero does not care about the residents he represents, arguing he is only using his position as Council Member as a stepping stone for a more prominent political role.

Susie de Santiago, thanked the Council for the backpack giveaway event it coordinated before school started. She also asked Council to reconsider the multi-unit complex project on Elizabeth street, citing exacerbated parking and traffic as points to consider when voting for the item.

William Tejada, spoke against the multifamily complex project on Elizabeth street, citing exacerbated parking as the major point to consider when voting for this item. He explained bringing a high volume of people to the City, via the 48-unit apartment project, will have a negative impact on the City. He went on to urge the City Manager to bring more community services to the City, noting his change in demeanor, not interacting with the residents and their concerns as he did when he first started.

Marcos Covarrubias, spoke in favor of replacing the City Manager, noting the community is not satisfied with the services he has brought. He disagreed with Naui’s comments clarifying Mr. Guerrero has never shown any signs of bigotry.

Corina Monguivar, spoke against the multi-unit complex project on Elizabeth Street noting exacerbated traffic will create unsafe conditions to pedestrians. She went on to speak against the City Manager, asking Council to replace him due to his detachment with the community. She urged Council needs to work for its community, and in doing so bring recreation events and services to its residents. She concluded her comments by urging the Council to not waste their youth and intelligence on bad policymaking and negative influences.

Patricia Covarrubias, quoted a phrase from Benito Juarez. She went on to speak against Naui’s comments for his defamatory nature, allegedly slandering Council Member Guerrero, whose purpose is to instigate in public forums for popularity. She went on to speak against the 48-unit apartment project on Elizabeth street, noting the city is not prepared for that much volume to enter the City. She went on to argue the approval of the Elizabeth project will serve as a slippery slope to also approve multi-unit projects on Cecilia Street.

Michelle Gessner, reported from the Aging and Senior Commission, noting the recent trip to Catalina Island among other events they have coordinated throughout the year. She concluded her comments by emphasizing respect among the Council, as they were all voted in by members of the community.
Gloria Sandoval, spoke against Naui for instigating in the City and spewing falsehoods against Council Member Guerrero. She went on to speak against the City Manager for allegedly not holding the community’s interest when acting as City Manager. She argued the residents want clean safe streets, sports, and the City Manager has not done enough to address those concerns. She concluded her comments by speaking against the 48-unit apartment project, citing exacerbated traffic and traffic causing an unsafe environment for pedestrians.

Trinidad Gillen, asked the Council to listen to the residents that are actively concerned with the community. He went on to speak in favor of Council Member Guerrero and urged the other members of Council to learn from Mr. Guerrero in how to effectively legislate. She went on to speak against the 48-unit apartment complex for traffic issues and exacerbated parking. She further commented that the City no longer feels safe as it feels like there is a murder or death every day. She urged Council to not renew the City Manager’s contract due to the lack of progress, citing dirty streets, lack of recreation programs, and detachment from the community.

6. CITY COUNCIL COMMENTS

Council Member Lozoya, expressed she is against the 48-unit apartment complex, arguing the City is ill equipped to absorb such a high volume of cars and people entering the City due to the project.

Council Member Guerrero, reiterated his public comments in Spanish. He announced that the latest status update from the California State Auditor, placed the City of Cudahy as one of the worst cities in California with highest possible evaluation of risk. He quoted the website saying Cudahy has a high potential for waste, fraud, abuse, and mismanagement. He concluded his comments by expressing his concerns about the financial handling of proceeds stemming from cannabis businesses, noting federally regulated banks cannot store funds stemming from cannabis revenue.

Vice Mayor Alcantar, announced she was appointed to the Global Government Service by the county supervisor. She announced City engagements with Hilda Solis’s office in regards to future development along Atlantic Avenue, notably a proposed Civic Center. She announced the backpack giveaway that was coordinated by the City, thanking all those who came and supported.

COUNCIL MEMBER GARCIA ARRIVED AT 7:21 P.M.

Mayor Gonzalez, expressed his excitement looking for more ways to bring affordable housing to the City. He also announced his meetings with local schools in regard to developing a public safety commission in the hopes of creating a tight safety net for students, specifically traffic safety. He announced the upcoming movie night event at Cudahy Park, and the volunteer day at Lugo Gym, as well as announced the recent backpack giveaway. He concluded his comments by announcing the meeting he had with the Vice Mayor and the Office of Hilda Solis, engaging in a public private partnership, to develop a fully functional civic center on Atlantic Avenue.

7. CITY MANAGER REPORT (information only)

8. REPORTS REGARDING AD HOC, ADVISORY, STANDING OR OTHER COMMITTEE MEETINGS – NONE

9. WAIVER OF FULL READING OF RESOLUTIONS AND ORDINANCES
10. CONSENT CALENDAR

A. Consideration to Review and Approve the Draft Minutes of August 6, 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 August 6, 2019.

Motion: It was moved by Vice Mayor Alcantar and seconded by Council Member Lozoya to review and approve the City Council / Successor Agency Draft Minutes for August 6, 2019. The motion carried (5-0-0) by the following roll call vote.

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

COUNCIL MEMBER GARCIA MADE THE MOTION TO MOVE ITEM 12D BEFORE PUBLIC HEARING ITEM 11A. MAYOR GONZALEZ SECONDED THE MOTION AND WAS PROCEEDED BY THE FOLLOWING ROLL CALL VOTE (3-2-0)

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

11. PUBLIC HEARING

A. Public Hearing to Consider the Appeal of Applicant Elizabeth OZ, LLC of the Cudahy Planning Commission’s decision to deny Development Review Permit No. 41-516, Conditional Use Permit No. 38-366, Conditional Use Permit No. 38-367 and Tentative Tract Map No. 80.68 (449) to allow the construction of a 48-unit multifamily residential development located at 4302-4312 Elizabeth Street (APN’s 6442-007-002 & 6224-006-016)

The City Council is requested to:

1. Adopt the Public Hearing;
2. Receive a presentation from staff
3. Pose questions to staff;
4. Receive comment from interested members of the public;
5. Pose closing questions to staff; and
6. Close the Public Hearing and commence deliberations

If the City Council desires, it may:
1. Uphold the Planning Commission’s decision based on the record on appeal and the testimony of City staff, the applicant and interested members of the public; or

2. Overturn the Planning Commission’s decision based on the record on appeal and the testimony of City staff, the applicant, and interested members of the public, and adopt Resolution No. 19-27

   a. Approving Development Review Permit No. 41-516 to allow the design, site layout, and the construction of a 48-unit multifamily residential development;
   
   b. Approving Conditional Use Permit No. 38-366 to allow a 35 percent density bonus of the number of “base” units allowed in the underlying zone, and incorporating affordable housing units;
   
   c. Approving Conditional Use Permit No. 38-367 to allow tandem parking spaces, and
   
   d. Approving Tentative Tract Map 80.68 (449) to combine two lots into one for the purpose of constructing the proposed 48-unit multifamily residential development in the Medium Density Residential (HER) Zone for the project located at 4302-4312 Elizabeth Street.

MAYOR GONZALEZ OPENED THE FLOOR FOR PUBLIC COMMENT AT 9:20 P.M.

Miranda Munguia, pointed out the particular project is a 48-units however a low percentage is allocated to low income. She noted the units dedicated to low income housing do not offset the six units that were previously there. She further argued the substantial increase in parked cars due to this project will have a detrimental effect on pedestrian safety. It is more apparent considering Teresa Hughes is across the street from the project. A third point was stated focusing the lack of parking in the project, arguing it is providing insufficient parking for the 48 units it is proposing. She cited ADA incompliance due to few units being located on the lower floor of the project. She argued displacing former inhabitants in that area is gentrification and allowing them the opportunity to reapply does not solve the issue.

Pamela Munguia, spoke against the development project arguing the City cannot absorb such large residential densities, as well as the lack of parking in the City. She further argued that local schools will suffer due to the large intake or students stemming from the various families living in the multi-unit complex, furthering the City’s already high density.

Marcos Oliva, argued that the City’s aggressive development policy is undermining residents’ quality to life. He elaborated the project did not go through CEQA or other studies before construction started. He noted building houses and improving homeownership in the City is more prudent than developing high density environments that will contribute to the City’s already high density.

Javier Flores, reminded Council the project is heavily opposed by City residents. He went on to speak against the City Manager for his lack of progress in the City. He further argued the developers are not prioritizing the interest of residents, and therefore should not be approved.

Susie de Santiago, expressed she is not opposed to new development. However, she is not comfortable with the developer’s request for a 35% density bonus. She further argued the Council can negotiate to dedicate more units to affordable housing.

Covina Monguivar, spoke against the development referencing the detrimental parking state in the City being exacerbated by the development as well as sympathizing with residents who were displaced as a result of the development.
MAYOR GONZALEZ CLOSED THE FLOOR FOR PUBLIC COMMENT AT 9:48 P.M.

Motion: It was moved by Vice Mayor Alcantar, and seconded by Mayor Gonzalez to Consider the Appeal of Applicant Elizabeth OZ, LLC of the Cudahy Planning Commission’s decision to deny Development Review Permit No. 41-516, Conditional Use Permit No. 38-366, Conditional Use Permit No. 38-367 and Tentative Tract Map No. 80.68 (449) to allow the construction of a 48-unit multifamily residential development located at 4302-4312 Elizabeth Street (APN’s 6224-007-002 & 6224-006-016). The motion carried (3-2-0) by the following roll call vote.

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

12. BUSINESS SESSION

A. Creation of an Economic Development Ad Hoc Committee and Appoint Two Council Members to Serve on this Committee

Presented by the City Manager

The City Council is requested to form an Economic Development Ad Hoc Committee and appoint two Council Members to serve on this committee.

Motion: It was motioned by Mayor Gonzalez and Seconded by Council Member Garcia to form an Economic Development Ad Hoc Committee and appoint two Council Member Garcia and Mayor Gonzalez to serve on this committee with no opposition.

B. Creation of a Contracts Review Ad Hoc Committee and appoint two Council Members to serve on this committee

Presented by the Assistant City Clerk

The City Council is requested to create a Contracts Review Ad Hoc Committee and select two Council Members to serve on this committee.

Motion: Mayor Gonzalez and Vice Mayor Alcantar were selected to serve on the Contracts Review Ad Hoc Committee with no opposition

C. Discuss and Consider Placing a Resolution on the Council Agenda, Requesting a Forensic Audit from the California State Controller

Presented by the Finance Director

The City Council is requested to discuss, and consider placing a Resolution on the Council agenda, requesting a forensic audit from the California State Controller, by majority vote.

Motion: It was motioned by Mayor Gonzalez and Seconded by Vice Mayor Alcantar to table the item and have city staff bring a report including cost, impact to staff, and any known information that city staff has as far as missing items as well as a narrative explaining how the City got on the list along with a recommendation from staff to form an ad hoc committee. The motion carried (4-1-0) by the following roll call vote.
D. Consideration to Appoint Board Members to City Commissions

Presented by the Assistant City Clerk

The City Council is requested to

1. Consider appointing Board Members to the following City Commissions: Parks and Recreation Commission; Public Safety Commission; Aging and Senior Citizens Commission;
2. Review all Board Member appointments on the Planning Commission; and
3. Provide staff with direction regarding any changes to the City’s Commission Board Member appointments.

Motion: It was motioned by Council Member Garcia and Seconded by Vice Mayor Alcantar to appoint Susie de Santiago, Leslie Padilla, Tevina Quintana, Edin Enamorado, and David Rodriguez to the Parks and Recreation Commission. The motion carried (3-2-0) by the following roll call vote.

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

Motion: It was motioned by Council Member Garcia and Seconded by Council Member Lozoya to appoint Michelle Gessner, Frank Gurule, Cecilo Cruz, Maria Jimenez, and Patricia Covarrubias to the Aging and Senior Citizen Commission. The motion carried (5-0-0) by the following roll call vote.

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

Motion: It was motioned by Council Member Garcia and Seconded by Vice Mayor Alcantar to appoint Emmanuel Cruz, Diana Vera, Gustavo Mendez, Enrique Cardonne, and Arturo Rosales to the Public Safety Commission. The motion carried (5-0-0) by the following roll call vote.

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

Motion: It was motioned by Mayor Gonzalez Seconded by Vice Mayor Hernandez to appoint Leslie Padilla, Gustavo Mendez, Gilbert Cuevas, Stephany Beltran, and Richard Corvera-Hernandez to the Planning Commission. The motion carried (3-2-0) by the following roll call vote.
Motion: It was motioned by Council Member Garcia by Vice Mayor Gonzalez to reconsider the previous motion. The motion carried (3-2-0) by the following roll call vote.

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

Motion: It was motioned by Council Member Lozoya and Seconded by Council Member Guerrero to appoint Leslie Padilla, Gustavo Mendez, Gilbert Cuevas, Patricia Covarrubias, and Richard Corvera-Hernandez to the Planning Commission. The motion carried (4-1-0) by the following roll call vote.

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

13. COUNCIL DISCUSSION

Council Member Guerrero

i. Discussion regarding increasing public speaking time to three minutes

Mayor Gonzalez

i. Discuss which two Council Members will serve on the City commissions Ad-Hoc Committee

14. CLOSED SESSION

Closed Session Pursuant to Government Code Section 54957 – Public Employee Performance Evaluation

Title of Employee: City Manager

ITEM WAS NOT DISCUSSED

16. ADJOURNMENT

The City Council / Agency meeting was adjourned at 9:22 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: September 17, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Steven Dobrenen, Finance Director
Subject: Consideration to Approve Proposition A Exchange Agreement with Palos Verdes Peninsula Transit Authority (PVPTA)

RECOMMENDATION

The City Council is requested to approve the exchange of $449,000 in available Proposition A (Prop A) funds with the Palos Verdes Peninsula Transit Authority (PVPTA) which was included in the Fiscal Year (FY) 2019-20 City Budget.

BACKGROUND

On June 18, 2019, the City Council passed a Resolution adopting the Fiscal Year 2019-20 City Budget which included an exchange of $449,000 of Prop A funds.

ANALYSIS

Prop A funds in the County of Los Angeles are restricted for transit purposes only. As a result many cities have difficulties spending their Prop A funds. MTA has allowed exchanges of funds to cities that can spend these restricted Prop A funds on approved projects. The Prop A funds may be exchanged for General Funds and there is no restriction on the use of the General Funds received through this exchange.

The City has $449,000 in Prop A funds available to sell to PVPTA $0.75 on the dollar which would yield $336,750 in General Fund monies. The proceeds of this Fund Exchange were approved as part of the FY 2019-20 City Budget to augment General Fund revenues to enable the City to provide services to its residents.
CONCLUSION

Approval of the above mentioned agreement would allow the City to enact the exchange of Prop A funds as anticipated in FY 2019-20 City Budget.

FINANCIAL IMPACT

The City would receive $336,750 of General Fund revenues as a result of the Prop A funds exchange with PVPTA at $0.75 cents on the dollar.

ATTACHMENTS

Proposition A Fund Exchange Agreement
PROPOSITION ‘A’ FUND EXCHANGE AGREEMENT

This Fund Exchange Agreement (Agreement) is made and entered into this 20th day of August 2019, by and between the Palos Verdes Peninsula Transit Authority (PVPTA) and the City of Cudahy, with respect to the following facts:

A. The PVPTA operates a municipal transit system and has a need for additional Proposition A Local Return funds to assist in the financing of its fixed route transit operations, and to provide funds for acquisition of a new transit related equipment.

B. The City of Cudahy has an accumulation of uncommitted Proposition A Local Return funds which could be made available to the PVPTA to assist in providing the project described in Paragraph A of this Agreement.

C. In exchange for the transfer by the PVPTA of the amount of its general funds indicated in Section 1 below, the City of Cudahy is willing to transfer uncommitted Proposition A Local Return funds to the PVPTA for the purpose identified in Paragraph A.

D. The Los Angeles County Metropolitan Transportation Authority approved this Fund Exchange and the PVPTA’s project description Form (Form A) covering the services discussed in Paragraph A above.

NOW THEREFORE, in consideration of the mutual benefits to be derived by the parties and of the premises herein contained, it is mutually agreed as follows:

1. Exchange. The City of Cudahy shall transfer $449,000 of its Fiscal Year 2019-2020 uncommitted Proposition A Local Return funds to the PVPTA. In return, the PVPTA shall transfer $336,750 in general funds to the City of Cudahy.

2. Consideration. The City of Cudahy shall transfer the agreed upon Proposition A Local Return funds to the PVPTA in one (1) lump sum payment no later than December 31, 2019. The PVPTA shall transfer the agreed upon general funds to the City of Cudahy in one (1) lump sum payment no later than December 31, 2019.

3. Term. This Agreement is effective on the date above written and for such time as is necessary for both parties to complete their mutual obligations under this Agreement.

4. Termination. Termination of this Agreement may be made by either party prior to the transfer of funds pursuant to Section 2 of this Agreement, so long as written notice of intent to terminate is given to the other party at least five (5) days prior to the termination.

5. Notices. Notices shall be given pursuant to this Agreement by personal service on the party to be notified, or by written notice upon such party deposited in the custody of the United States Postal Service addressed as follows:
6. Assurances.

   a. The PVPTA shall use the assigned Proposition A Local Return Funds only for the purpose of providing the project discussed in Paragraph A of this Agreement and within the time limits specified in Metropolitan Transportation Authority's Proposition A Local Return Program Guidelines.

   b. Concurrently with the Execution of this Agreement, the PVPTA shall provide the Metropolitan Transportation Authority with the Standard Assurances and Understandings Regarding Receipt and Use of Proposition A Funds specified in the Guidelines regarding the use of the assigned Proposition A Local Return Funds.

7. Entire Agreement. This Agreement constitutes the entire understanding between the parties, with respect to the subject matter herein. This Agreement shall not be amended nor any provisions or breach hereof waived, except in writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Fund Exchange Agreement to be executed by their respective officers, duly authorized, on the day and year written above.

PALOS VERDES PENINSULA TRANSIT                     CITY OF CUDAHY

By:_____________________________  By:_____________________________
   Chairperson                     Mayor

Attest:                                         Attest:

________________________________________    __________________________________
                      Martin Gombert, Administrator  Richard Iglesis, Assistant City Clerk
STAFF REPORT

Date: September 17, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Steven Dobrenen, Finance Director
Subject: Consideration and Approval of a Proposed Second Amendment to the Professional Services Agreement (PSA) With ejma Planning + Development Services (ejma)

RECOMMENDATION

The City Council is requested to consider and approve a proposed Second Amendment to ejma Planning + Development Services (ejma) contract extending the term by one (1) year from September 26, 2019 to September 25, 2020 and increasing the original Professional Services Agreement (PSA) amount to $660,000.

BACKGROUND

1. On September 11, 2017, City Council held a Second Reading adopting Ordinance No. 673 allowing medicinal-only commercial cannabis activities.

2. On September 25, 2017, City Council approved a PSA with ejma for cannabis regulation and land use entitlement consulting services for a one year period through September 25, 2018.

3. On September 18, 2019, the City Council approved a first amendment agreement with ejma to extend the term for one year through September 25, 2019.

4. Since then, the City has been coordinating with ejma to facilitate the implementation phase, and is now facilitating the development of 21 cannabis applicants.
Pursuant to the Cudahy Municipal Code (CMC) Chapter 20.120.030 (Ordinance No. 673), all Commercial Cannabis activities, except retail dispensaries, shall be allowed within the Cannabis Overlay Zone with a Development Agreement adopted, and operate in accordance with Development Agreement Law (Government Code Section 65864 et. Seq.) and CMC Chapter 20.28 (Development Agreements). The City shall issue Commercial Cannabis Permits (CCP) as defined in Chapter 5.20.020(c). Cannabis permits may authorize Commercial Cannabis Activity, including, but not limited to, Cannabis Cultivation, Manufacturing, Distribution, Retail Delivery, Microbusinesses and Testing. Commercial Cannabis activities may be conditionally permitted within the Cannabis Overlay Zone. Commercial Cannabis Permits are a distinct and unique Conditional Use Permit which can only be granted within the Cannabis Overlay Zone and in accordance with applicable state law.

Each commercial cannabis operator is required, by Ordinance No. 673, to have both a Commercial Cannabis Permit and a Development Agreement that authorizes the specific Commercial Cannabis activities. The Development Agreement establishes annual operating and Community Benefit Program (CBP) fees that would be paid by the Operator to the City, upon execution of the agreement. The proposed Development Agreements with all commercial cannabis operators require Operators to pay a monthly operating fee of $0.42 per square foot of the premises, as identified in each respective Development Agreement, until the owner is operating and selling products under the City and State regulatory permits. Once operators are operating or generating income, the monthly operating fee would be the greater of $0.42 per square foot of production space or 1%-2% of gross receipts, based on the license type.

Currently, the City has approved Development Agreements for 21 cannabis applicants to operate in the City. Due to the lack of personnel, City staff cannot fully absorb the responsibilities and tasks needed to process the applicants.

Ejma has demonstrated the qualifications and expertise needed to successfully process approved applicants and move them forward to operating in the City.

Costs incurred by the City for plan check, processing the Commercial Cannabis Permit applications, Development Agreements, and other planning services are recovered from each developer through a Development Agreement.
CONCLUSION

The City is requesting City Council to approve the proposed Second Amendment to the Professional Services Agreement with ejma by one year through September 25, 2020.

FINANCIAL IMPACT

The services included in the contract will be performed for an estimated amount for FY 2019-20 of $200,000. This Second Amendment will bring total contract amount to $660,000. The cost of these services is reimbursable by the license holders per the development agreements. The net cost for the City for services provided will be zero.

ATTACHMENTS

A. Proposed Second Amendment to the Professional Services Agreement
B. Approved First Amendment to the Professional Services Agreement
C. Master Professional Services Agreement
2019
SECOND AMENDMENT
TO AGREEMENT FOR PROFESSIONAL SERVICES
(ejma Planning + Development Services: Cannabis-Related Regulatory Consulting)

THIS SECOND AMENDMENT ("Second Amendment") to that certain agreement entitled "Professional Services Agreement" dated as of September 25, 2017, is hereby made and entered into this 17th day of September, 2019 (the "Effective Date") by and between the City of Cudahy, a municipal corporation (hereinafter, "CITY") and ejma Planning and Development Services (hereinafter, "CONSULTANT"). For purposes of this Second Amendment, the capitalized term "Parties" shall be a collective reference to the City and Consultant and the capitalized term "Party" shall refer to the City or Consultant interchangeably, as appropriate.

RECITALS

This Second Amendment is made and entered into with respect to the following facts:

WHEREAS, on or about September 25, 2017, the Parties executed and entered into that certain agreement entitled "Professional Services Agreement" (hereinafter, the "Master Agreement") to provide specialized, technical consulting services with respect to the City’s efforts to develop, review and implement ordinances and other regulations, policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy. The Master Agreement is attached and incorporated hereto as Exhibit “A”; and

WHEREAS, the First Amendment was approved by the City Council at its regular meeting of September 18, 2018.

WHEREAS, the Parties now wish to further amend the terms of the Master Agreement to extend the Term of the Master Agreement by one year through September 25,2020 and to increase the not-to-exceed sum (hereinafter, “Contract Price”) to new total Contract Price of SIX HUNDRED AND SIXTY THOUSAND ($660,000); and

WHEREAS, this Second Amendment was approved by the City Council at its regular meeting of September 17, 2019.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

1. Subsection 1.2 TERM: This Agreement shall be effective through September 25, 2020.
A. Subsection 1.3 COMPENSATION: This Agreement is approved by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal which requires City Council approval for contracts with a value in excess of Twenty-Five Thousand Dollars ($25,000). The foregoing notwithstanding, if and when CONSULTANT’s charges exceed the sum of $660,000 prior to the expiration of the Term, the City Manager, in his/her discretion, may suspend or terminate CONSULTANT’s performance pending consultation between the City Manager and the City Council regarding CONSULTANT’s performance and whether or not additional expenditures should continue to be incurred. CONSULTANT shall have no right or expectation to sums in excess of $660,000 in the event the City Manager suspends or terminates CONSULTANT’s performance when or before CONSULTANT’s charges exceed $660,000 during the Term of this Agreement.

[SIGNATURES FOLLOW ON NEXT PAGE]
CITY OF CUDAHY:

By: ____________________________
    Jose E. Pulido,
    City Manager

CONSULTANT
ejma Planning + Development Services

By: ____________________________

Name: __________________________

Title: __________________________

ATTEST:

By: ____________________________
    Assistant City Clerk

APPROVED AS TO FORM:

By: ____________________________
    City Attorney
EXHIBIT A
MASTER AGREEMENT
2018
FIRST AMENDMENT
TO AGREEMENT FOR PROFESSIONAL SERVICES
(ejma Planning + Development Services: Cannabis-Related Regulatory Consulting)

THIS FIRST AMENDMENT ("First Amendment") to that certain agreement entitled "Professional Services Agreement" dated as of September 25, 2017, is hereby made and entered into this 25th day of September, 2018 (the "Effective Date") by and between the City of Cudahy, a municipal corporation (hereinafter, "CITY") and ejma Planning and Development Services (hereinafter, "CONSULTANT"). For purposes of this First Amendment, the capitalized term "Parties" shall be a collective reference to the City and Consultant and the capitalized term "Party" shall refer to the City or Consultant interchangeably, as appropriate.

RECITALS

This First Amendment is made and entered into with respect to the following facts:

WHEREAS, on or about September 25, 2017, the Parties executed and entered into that certain agreement entitled "Professional Services Agreement" (hereinafter, the "Master Agreement") to provide specialized, technical consulting services with respect to the City’s efforts to develop, review and implement ordinances and other regulations, policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy. The Master Agreement is attached and incorporated hereto as Exhibit "A"; and

WHEREAS, the Parties now wish to further amend the terms of the Master Agreement to extend the Term of the Master Agreement by one year through September 25, 2019 and to increase the not-to-exceed sum (hereinafter, "Contract Price") to new total Contract Price of FOUR HUNDRED SIXTY THOUSAND DOLLARS ($460,000); and

WHEREAS, this First Amendment was approved by the City Council at its regular meeting of September 18, 2018.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

1. Subsection 1.2 TERM: This Agreement shall be effective through September 25, 2019.

   A. Subsection 1.3 COMPENSATION: This Agreement is approved by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal which requires City Council approval for contracts with a value in excess of Twenty-Five Thousand
Dollars ($25,000). The foregoing notwithstanding, if and when CONSULTANT’s charges exceed the sum of $460,000 prior to the expiration of the Term, the City Manager, in his/her discretion, may suspend or terminate CONSULTANT’s performance pending consultation between the City Manager and the City Council regarding CONSULTANT’s performance and whether or not additional expenditures should continue to be incurred. CONSULTANT shall have no right or expectation to sums in excess of $460,000 in the event the City Manager suspends or terminates CONSULTANT’s performance when or before CONSULTANT’s charges exceed $460,000 during the Term of this Agreement.

[SIGNATURES FOLLOW ON NEXT PAGE]
CITY OF CUDAHY:
By: Jose E. Pulido,
   City Manager

CONSULTANT
ejma Planning + Development Services
By: 

Name: Ebony J. McFee Andersen

Title: Principal Planner

ATTEST:
By: 
   Deputy City Clerk

APPROVED AS TO FORM:
By: 
   City Attorney
PROFESSIONAL SERVICES AGREEMENT
(ejma Planning + Development Services: Cannabis-Related Regulatory Consulting)

2017

THIS 2017 PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 25th day of September 2017 (hereinafter, the "Effective Date"), by and between the CITY OF CUDAHY, a municipal corporation ("CITY") and EJMA PLANNING + DEVELOPMENT SERVICES (hereinafter, "CONSULTANT"). For the purposes of this Agreement CITY and CONSULTANT may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONSULTANT interchangeably.

WHEREAS, CITY wishes to engage CONSULTANT to provide specialized, technical consulting services with respect to the City’s efforts to develop, review and implement ordinances and other regulations, policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy; and

WHEREAS, CITY’s in-house personnel are unable to perform the specialized services and tasks contemplated under this Agreement; and

WHEREAS, CONSULTANT possesses the specialized training, skill, expertise and experience required to perform the services contemplated under this; and

WHEREAS, the execution of this Agreement is authorized pursuant to Sections 3.16.160(A) and 3.16.110(B) of the Cudahy Municipal Code.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

I. ENGAGEMENT TERMS

1.1 SCOPE OF WORK: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform the various services and tasks set forth in that certain proposal of CONSULTANT dated September 18, 2017 which is entitled "Project Scope" and which is attached and incorporated hereto as Exhibit "A" (hereinafter referred to as the "Scope of Work"). CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this
Agreement, the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term “Work.”

1.2 **TERM:** This Agreement shall have a term of one (1) year commencing from the Effective Date.

1.3 **COMPENSATION:** This Agreement is approved by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal which requires City Council approval for contracts with a value in excess of Twenty-Five Thousand Dollars ($25,000). The foregoing notwithstanding, if and when CONSULTANT’s charges exceed the sum of $25,000 prior to the expiration of the Term, the City Manager, in his/her discretion, may suspend or terminate CONSULTANT’s performance pending consultation between the City Manager and the City Council regarding CONSULTANT’s performance and whether or not additional expenditures should continue to be incurred. CONSULTANT shall have no right or expectation to sums in excess of $25,000 in the event the City Manager suspends or terminates CONSULTANT’s performance when or before CONSULTANT’s charges exceed $25,000 during the Term of this Agreement.

1.4 **PAYMENT OF COMPENSATION:** The Not-to-Exceed Sum shall be paid to CONSULTANT in increments as the Work is completed. Following the conclusion of each calendar month, CONSULTANT shall submit to CITY an itemized invoice indicating the services and tasks performed during the recently concluded calendar month. If the amount of CONSULTANT’s monthly compensation is a function of hours worked by CONSULTANT’s personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. Within thirty (30) calendar days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.

1.5 **ACCOUNTING RECORDS:** CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities. All other “Documents and Data” as defined in paragraph 6.1 shall be and remain property of the CITY.
1.6 **ABANDONMENT BY CONSULTANT:** In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONSULTANT shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II. **PERFORMANCE OF AGREEMENT**

2.1 **CITY'S REPRESENTATIVES:** The CITY hereby designates the City Manager (hereinafter, the "CITY Representative") to act as its representative for the performance of this Agreement. The CITY Representative or their designee, which designee the CITY may assign by notifying CONSULTANT in writing, shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the CITY Representative or designee.

2.2 **CONSULTANT'S REPRESENTATIVES:** CONSULTANT hereby designates Ebony J. McGee as its primary representative and point of contact for purposes of this Agreement (hereinafter, "CONSULTANT Representative"). The CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. The CONSULTANT Representative or designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONSULTANT Representative shall constitute notice to CONSULTANT.

2.3 **COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS:** CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and written approval by CITY Representatives or their designees.

2.4 **STANDARD OF CARE; PERFORMANCE OF EMPLOYEES:** CONSULTANT represents, acknowledges and agrees to the following:
A. CONSULTANT shall perform all Work skillfully, competently and to the highest standards of CONSULTANT's profession;

B. CONSULTANT shall perform all Work in a manner reasonably satisfactory to the CITY;

C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code section 1090 and the Political Reform Act (Government Code section 81000 et seq.);

D. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;

E. All of CONSULTANT’s employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and

F. All of CONSULTANT’s employees and agents (including but not limited to subcontractors and sub-consultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT’s own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT’s failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT’s employees, agents, contractors, subcontractors and sub-consultants. Such effort by CONSULTANT to correct any errors or omissions shall be commenced within three (3) business days upon their discovery by either Party and shall be completed within no more than fifteen (15) calendar days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion except for any error or omission which may be a hazard to health or life safety in which case corrective action shall be taken immediately and shall be diligently completed. The Parties acknowledge and agree that CITY’s acceptance of any work performed by CONSULTANT or on CONSULTANT’s behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONSULTANT’s profession.
2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.

2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not employees of CITY and shall at all times be under CONSULTANT's exclusive direction and control. CONSULTANT shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.

2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT's officers, employees, agents, contractors, subcontractors or sub-consultants are determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, contractors, subcontractors or sub-consultants fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or sub-consultant shall be promptly removed by CONSULTANT and shall not be reassigned to perform any of the Work.
2.8 **COMPLIANCE WITH LAWS:** CONSULTANT shall keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT’s compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.

2.9 **NON-DISCRIMINATION:** In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subcontractor, sub-consultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

2.10. **INDEPENDENT CONTRACTOR STATUS:** The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments, or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and sub-consultants. CONSULTANT and all persons retained or employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor 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 to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

3.1 **DUTY TO PROCURE AND MAINTAIN INSURANCE:** Prior to the beginning of and throughout the duration of the Work, CONSULTANT will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONSULTANT shall procure and maintain the following insurance coverage, at its own expense:

A. **Workers' Compensation Insurance/ Employer's Liability Insurance:** In the event CONSULTANT hires any employees to perform on CONSULTANT's behalf under this Agreement, CONSULTANT shall procure a policy of workers' 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 both CONSULTANT and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONSULTANT in the course of carrying out the Work contemplated in this Agreement.

B. **Errors & Omissions Insurance:** For the full term of this Agreement and for
a period of one (1) year thereafter, CONSULTANT shall procure and maintain Errors and Omissions Liability Insurance appropriate to CONSULTANT's profession. Such coverage shall have minimum limits of no less than One Million Dollars ($1,000,000.00) per occurrence and shall be endorsed to include contractual liability.

3.2 [RESERVED – NO TEXT]

3.3 [RESERVED – NO TEXT]

3.4 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONSULTANT shall be primary to any coverage available to CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONSULTANT's insurance and shall not contribute with it.

3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subcontractors or sub-consultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY.

3.6 VERIFICATION OF COVERAGE: CONSULTANT acknowledges, understands and agrees, that CITY's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY's financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONSULTANT warrants, represents and agrees that its shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the CITY if requested. All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONSULTANT's commencement of any work or any of the Work. Upon CITY's written request, CONSULTANT shall also provide CITY with certified copies of all required insurance policies and endorsements.

IV.
INDEMNIFICATION
4.1 The Parties agree that CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemniteses") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemniteses with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend and protect CITY as set forth herein.

4.2 To the fullest extent permitted by law, CONSULTANT shall indemnify, hold harmless and defend the CITY Indemniteses from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of Work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.

4.3 CITY shall have the right to offset against the amount of any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Article and related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

4.4 The obligations of CONSULTANT under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONSULTANT expressly waives its statutory immunity under such statutes or laws as to CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers.

4.5 CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT's subcontractors or any other person
or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys’ fees incurred by counsel of CITY’s choice.

4.6 CITY does not, and shall not, waive any rights that it may possess against CONSULTANT because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

V. TERMINATION

5.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONSULTANT a minimum of five (5) calendar days’ prior written notice of CITY’s intent to terminate this Agreement. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY’s written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY’s ability to terminate this Agreement for convenience as provided under this Section.

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, “Event of Default”) shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a “Default Notice”) which shall
specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; and (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONSULTANT shall cure the following Events of Defaults within the following time periods:

i. Within five (5) business days of CITY’s issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY’s employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY’s employees or agents under this Agreement. Prior to the expiration of the 5-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 5-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2.B.i that exceeds seven (7) calendar days from the end of the initial 5-day cure period; or

ii. Within fourteen (14) calendar days of CITY’s issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2.B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT’s refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONSULTANT’s failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT’s and/or its employees’ disregard or
violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary of involuntary; (v) CONSULTANT’s refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vi) CITY’s discovery that a statement, representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT’s issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY’s failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT’s Default Notice to CITY.

D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT’s performance under this Agreement pending CONSULTANT’s cure of any Event of Default by giving CONSULTANT written notice of CITY’s intent to suspend CONSULTANT’s performance (hereinafter, a “Suspension Notice”). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY’s ability to suspend this Agreement as provided herein.

E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole
and absolute discretion, may also pursue any one or more of the following remedies:

i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;

ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;

iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT’s breach of the Agreement or to terminate the Agreement; or

iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement by CONSULTANT or in the CITY’s exercise of its remedies under this Agreement.

G. In the event CITY is in breach of this Agreement, CONSULTANT’s sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

5.3 **SCOPE OF WAIVER:** No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 **SURVIVING ARTICLES, SECTIONS AND PROVISIONS:** The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. **MISCELLANEOUS PROVISIONS**

6.1 **DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY:** All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term “Documents and Data” means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications,
notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subcontractors and sub-consultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or sub-consultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.

6.3 FALSE CLAIMS ACT: CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., section 3789 et seq. and the California False Claims Act, Government Code section 12650 et seq.

6.4 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CITY:

CONSULTANT:
Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

6.5 **COOPERATION; FURTHER ACTS:** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.6 **SUBCONTRACTING:** CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with sub-consultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.

6.7 **CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS:** CITY reserves the right to employ other contractors in connection with the various projects worked upon by CONSULTANT.

6.8 **PROHIBITED INTERESTS:** CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.9 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.
6.10 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

6.11 **ATTORNEYS' FEES:** If either Party commences an action against the other Party, legal, administrative, or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.

6.12 **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding on the successors and assigns of the Parties.

6.13 **NO THIRD PARTY BENEFIT:** There are no intended third party beneficiaries of any right or obligation assumed by the Parties under this Agreement. All rights and benefits under this Agreement inure exclusively to the Parties.

6.14 **CONSTRUCTION OF AGREEMENT:** This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.

6.15 **SEVERABILITY:** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.16 **AMENDMENT; MODIFICATION:** No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.

6.17 **CAPTIONS:** The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

6.18 **INCONSISTENCIES OR CONFLICTS:** In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
6.19 **ENTIRE AGREEMENT:** This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party, which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.16, above.

6.20 **COUNTERPARTS:** This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONSULTANT and the remaining two original counterparts shall be retained by CITY.

[SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF CUDAHY:

By: Jose Pulido,
    City Manager

CONSULTANT
ejma Planning + Development Services

By: Ebony J. McGee

Name:

Title: Principal

ATTEST:

By: [Signature]
    Deputy City Clerk

APPROVED AS TO FORM:

By: [Signature]
    City Attorney
EXHIBIT “A”
SCOPE OF WORK

EJMA PLANNING + DEVELOPMENT SERVICES
PROJECT SCOPE
September 18, 2017

OVERVIEW

Project Background and Description
The City of Cudahy has requested Ebony J. McGee Andersen, founder and Principal of ejma Planning + Development Services to provide specialized, technical planning services to assist the City with establishing a regulatory framework for new cannabis businesses in the City. ejma is committed to helping the City create and implement the necessary policies, procedures and regulations to ensure all cannabis related activities are conducted in a manner which promotes the highest standards of public safety.

In addition to policy development and implementation, ejma will work with City to process all cannabis land use entitlements in accordance with the City's zoning code and general plan requirements. To ensure all facilities operate strictly pursuant to the terms and conditions of approval of the land use entitlement, ejma will conduct on-going condition compliance inspections on behalf of the City. ejma will work with the City to develop a monitoring and inspection schedule as well as stringent enforcement measures for cannabis activities within the City.

Project Scope

a. Cannabis Program Development – ejma will consult with City staff and project consultants on the City's Cannabis Permit program. ejma will support the City and its consultants with the preparation of applicant screening process and procedure policies, application development, permit processing timelines and schedules, and other cannabis program implementation tasks, as requested.

b. Land Use Entitlement – ejma will provide all review all cannabis related land use entitlement applications and process pursuant to the City's municipal code and applicable zoning, environmental and cannabis regulations.

c. Environmental Review – ejma will review all land use projects pursuant to CEQA and prepare the appropriate CEQA documents on behalf of the City.

d. Public Hearings – ejma will prepare staff reports, resolutions and ordinances necessary for public hearings for all cannabis projects. Public hearing notices will be prepared with assistance for City Planning staff.

e. Inspections, Monitoring and Condition Compliance – ejma will conduct initial land use compatibility site visits for proposed cannabis businesses. At least annually, condition
compliance inspections will be conducted to ensure Permittees are operating in accordance with the approved permit conditions, zoning code, and state regulations.

f. Reports – ejma will provide the City with annual compliance reports for each cannabis facility. The reports will include any violations observed, abatement recommendations, an abatement schedule and any other information the City requests.

g. Enforcement Proceedings – ejma will assist the City will all enforcement efforts, as needed, in accordance with the City’s municipal code.

Project Services

Specific project tasks may include, but are not limited to the following:

- Ordinance and resolution preparation
- Permit fee evaluation
- Development Agreement review and oversight
- Discretionary permit application development, review and issuance
- Zoning verification
- Permit application development
- Permit License application review and screening
- Community Outreach
- CEQA review + document preparation
- Staff report preparation
- General project management services

Deliverables

All deliverables will be provided to the City by ejma by timelines established by the City. Deliverables may include, staff reports, CEQA documents, ordinances and resolutions, or other project-related documents, as stipulated by the City.

Specific Exclusions from Scope

Services do not include development of cannabis online registration or application process, cost recovery system models, or any other fiscal impact analysis related tasks.

Implementation Plan

a. Develop cannabis permit application process
b. Prepare submission requirements and timeline
c. Post marketing materials on City website
d. Assist applicants with the planning and development process
e. Provide contract staff for Planning department, as needed, throughout application process
f. Assist with applicant pre-screen and interviews
g. Develop and draft standard Conditions of Approval for Development Agreements and land use entitlements
h. Develop parking standards and design guidelines
i. Review and analyze cannabis project applications in accordance with applicable zoning code requirements and development standards.
j. Conduct CEQA review and prepare CEQA documents
k. Prepare hearing documents
l. Conduct ongoing monitoring and condition compliance
m. Prepare compliance reports and enforce documents

**Timeline/Schedule**
To be established by the City.

**Team Leads**
Ebony J. McGee Andersen, Project Manager + Principal Planner
Nicholas G. Burge, Fire + Hazardous Materials Safety Manager
Additional Planning + Building staff will be added as project demands

**Project Billing Rates**

<table>
<thead>
<tr>
<th>Planning + Building Staff Positions</th>
<th>Hourly Rate*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager/Principal Planner</td>
<td>$160</td>
</tr>
<tr>
<td>Senior Project Planner</td>
<td>$135</td>
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<tr>
<td>Associate Project Planner</td>
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<tr>
<td>Planning Technician</td>
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<tr>
<td>Fire + Hazardous Materials Safety Manager</td>
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<tr>
<td>Building Inspector/Plan Check</td>
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</tr>
<tr>
<td>Administrative Assistant</td>
<td>$30</td>
</tr>
</tbody>
</table>

*Overtime, expedited review time and mileage will not be billed to the client unless expressly indicated in the executed service agreement.
STAFF REPORT

Date: September 17, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
Subject: Consideration and approval of a Proposed Second Amendment to the First Amended and Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services

RECOMMENDATION

The City Council is requested to consider and approve a Proposed Second Amendment to the First Amended and Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services by one year from September 26, 2019 through September 25, 2020 for the new not to exceed PSA amount of $270,000.

BACKGROUND

1. On June 27, 2017, as part of an Economic Development Ad Hoc Committee presentation on revenue-generating opportunities, commercial cannabis regulations and strategies were offered to and discussed by the City Council. Based upon such discussion and direction from the City Council Economic Development Ad Hoc Committee and City Council, the City sought to establish an overlay zone in the City in which certain medicinal-only commercial cannabis activities could be conducted in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) and the City’s police power under Section 7 of Article XI of the California Constitution.

2. On July 31, 2017, the Cudahy Planning Commission adopted Planning Commission Resolution No. 17-03, which: (1) found that the proposed Ordinance No. 673, entitled, “An Ordinance of the City Council of the City of Cudahy Amending Title 5 (Business Licenses and
Regulations) and Title 20 (Zoning) of the Cudahy Municipal Code to Prohibit Cannabis Retailers/Dispensaries Citywide and to Establish Regulations and a Discretionary Review Process for the Allowance of Medicinal-Only Commercial Cannabis Activities (Cultivation, Distribution, Manufacturing, Deliveries, Microbusinesses, and Laboratory Testing) in a Specified Overlay Zone through a Development Agreement,” is consistent with the General Plan and compliant with CEQA; and (2) recommended City Council approval of the proposed Ordinance.

3. On August 24, 2017, the City Council approved Ordinance No. 673 for First Reading.

4. On September 11, 2017, the City Council approved Ordinance No. 673 on Second Reading.

5. On September 13, 2017, the City Council Economic Development Ad-hoc Committee held a meeting with cannabis-related consultants to review and refine their respective scopes of work with the goal to establish a cohesive and comprehensive application process for implementation by December 31, 2017.


7. On August 21, 2018 the City Council approved a First and Restated Amendment with the Law Office of Glenn Ward Calsada on certain cannabis-related activities in the City and to expand the Scope of Work under the Agreement to include representation of the City in the Litigation Matter and matters arising out of the same facts and circumstances as the Litigation Matter, which representation shall be performed in consultation and cooperation with the Office of the City Attorney. The first amendment is effective through September 25, 2019.

**ANALYSIS**

The Law Office of Glenn W. Calsada possesses the specialized training, skills, expertise and experience to perform the services contemplated pursuant to the Agreement. Moreover, the Law Office of Glenn W. Calsada has substantial land use transactional and litigation experience to more readily assist City staff in its preparation and drafting of the specific documents necessary to implement the policies and procedures for the regulation of certain cannabis-related business activities in the City of Cudahy, and to assist on issues of compliance with existing local ordinances.
The Scope of Work under the Agreement includes the ongoing litigation and advocacy services in the Litigation Matter and matters arising out of the same facts and circumstances as the Litigation Matter, which representation shall be performed in consultation and cooperation with the Office of the City Attorney. Additionally, the Agreement designates Maribel S. Medina, Esq. and Vincent Sarmiento, Esq. (as Of Counsel) to act as Consultant’s representative (“Consultant Representative”) for the performance of this Agreement. Consultant Representative shall have full authority to represent and act on behalf of Consultant for all purposes under this Agreement. Consultant Representative or his/her designee shall supervise and direct the performance of the Scope of Work, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the scope of work under this Agreement.

This Agreement shall remain in effect for a one (1) year term after the Agreement’s original termination date of September 25, 2019 and is subject to approval by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal Code, which requires City Council approval for contracts with a value in excess of $25,000. The City Manager, acting under the delegated authority of the City Council by approval of this Agreement, may authorize the payment of fees and charges to Consultant in excess of $25,000 during the term of this Agreement.

CONCLUSION

City Council approval of this Proposed Second Amendment to the First Amended Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services will allow the City to continue to develop the necessary policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy, and will provide the City with litigation and advocacy services in cooperation with the Office of the City Attorney.

FINANCIAL IMPACT

It is estimated that the Agreement will have a fiscal impact of approximately $200,000 for Fiscal Year 2019-20. However, that amount may vary depending on the cannabis regulation consulting and litigation and advocacy services requested by the Council. The cost of these services is reimbursable by the license holders per the development agreements. The net cost by the City for services provided will be zero. Expenditures from consulting, litigation and
advocacy services will not be reimbursed by license holders. However, the plaintiff and/or defendant is expected to reimburse the City in the case the court rules in favor of the City.

**ATTACHMENTS**

A. Proposed Second Amendment to the First Amended Restated Professional Services Agreement
B. First Amended and Restated Professional Services Agreement with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services
C. Professional Services Agreement with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting Services
2019
SECOND AMENDMENT TO THE FIRST AMENDED RESTATED PROFESSIONAL SERVICES AGREEMENT  
(Law Office Of Glenn Ward Calsada Cannabis Regulation Consulting and Litigation Services)

THIS 2019 PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this _____ day of _______________ 2019 (hereinafter, the “Effective Date”), by and between the CITY OF CUDAHY, a municipal corporation (“CITY”) and LAW OFFICE of GLENN WARD CALSADA (hereinafter, “CONSULTANT”). For the purposes of this Agreement CITY and CONSULTANT may be referred to collectively by the capitalized term “Parties.” The capitalized term “Party” may refer to CITY or CONSULTANT interchangeably.

WHEREAS, CITY wishes to engage CONSULTANT to provide specialized legal, analytical consulting services with respect to the City’s efforts to develop, review and implement regulations, policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy; and

WHEREAS, CONSULTANT possesses the specialized training, skill, expertise and experience required to perform the services contemplated under this; and

WHEREAS, the execution of this Agreement is authorized pursuant to Sections 3.16.160(A) of the Cudahy Municipal Code; and

WHEREAS, the Original Agreement was approved by the Cudahy City Council for a one (1) year term at a Concurrent Special Meeting of the Cudahy City Council held September 25, 2017 under Agenda Item 5.A; and

WHEREAS, the First and Restated Agreement was approved by the Cudahy City Council at its Regular Meeting of August 21, 2018.

WHEREAS, CITY now wishes to continue this Agreement with CONSULTANT on certain cannabis related activities in the City of Cudahy and to expand the CONSULTANT’S scope of work to include litigation and advocacy services as agreed in the first amendment of this agreement on specified matters in consultation and cooperation with the City Attorney; and

WHEREAS, this Agreement was approved by the Cudahy City Council at its Regular Meeting of September 17, 2019.
NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

I.

ENGAGEMENT TERMS

1.1 SCOPE OF WORK:

A. Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform the services and tasks set forth in Exhibit “A” (hereinafter referred to as the “Scope of Work”) to include litigation and advocacy services on specified matters, which are to be performed in consultation and cooperation with the Office of the City Attorney, and such other litigation matters as may be requested by the City Council that arise out of or are otherwise based on the same facts and circumstances as the Litigation Matter. CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement, the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term “Work.” CONSULTANT’S resume is attached hereto as Exhibit “B”.

B. Section 1.1(A) notwithstanding, Section 5 of the Scope of Services is amended to state: “Consultant will provide clients, upon their request, with an analysis of proposed regulations and legislation and their potential impacts on the client’s objectives.”

C. Section 1.1(A) notwithstanding, Section 6 of the Scope of Services is deleted and repealed in its entirety.

1.2 TERM. This Agreement shall commence on the Effective Date first written above and shall remain in effect for a one (1) year term after the termination date of the First Amended Restated Agreement.

1.3 COMPENSATION:

A. CONSULTANT shall perform the various services and tasks set forth in the Scope of Work at an hourly rate of Two Hundred and Fifty Dollars ($250) per hour.

B. This Agreement is approved by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal Code which requires City Council approval for contracts
with a value in excess of Twenty-Five Thousand Dollars ($25,000). Accordingly, the City Manager, acting under the delegated authority of the City Council by approval of this Agreement, may authorize the payment of fees and charges to CONSULTANT in excess of $25,000 during the Term of this Agreement.

1.4 PAYMENT OF COMPENSATION: Following the conclusion of each calendar month, CONSULTANT shall submit to CITY an itemized invoice indicating the services and tasks performed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's monthly compensation is a function of hours worked by CONSULTANT's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar day of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.

1.5 ACCOUNTING RECORDS: CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

1.6 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONSULTANT shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II. PERFORMANCE OF AGREEMENT

2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager, the City Attorney and the Personnel Manager (hereinafter, the “CITY
Representatives”) to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the CITY Representatives or their designee.

2.2 CONSULTANT REPRESENTATIVE: CONSULTANT hereby designates Vincent Sarmiento, Esq. and Maribel S. Medina, Esq. (as Of Counsel) to act as its representative for the performance of this Agreement (hereinafter, “CONSULTANT Representative”). CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. CONSULTANT Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONSULTANT Representative shall constitute notice to CONSULTANT.

2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONSULTANT represents, acknowledges and agrees to the following:

A. CONSULTANT shall perform all Work skillfully, competently and to the highest standards of CONSULTANT’s profession;

B. CONSULTANT shall perform all Work in a manner reasonably satisfactory to the CITY;

C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.);

D. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;

E. All of CONSULTANT’s employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and
F. All of CONSULTANT's employees and agents (including but not limited subcontractors and sub-consultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT's own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT's employees, agents, contractors, subcontractors and sub-consultants. Such effort by CONSULTANT to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY's acceptance of any work performed by CONSULTANT or on CONSULTANT's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONSULTANT's profession.

2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONSULTANT are material to CITY’s willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT’s duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY’s prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement. In recognition of the foregoing, CITY consents to CONSULTANT’s engagement and use of Vincent F. Sarmiento, Esq., Maribel S. Medina, Esq. and Carlos Valenzuela, paralegal and Lafayette N. Ward, paralegal, to perform services and tasks in the furtherance of CONSULTANT’s performance under this Agreement. Mr. Calsada, Mr. Sarmiento and their paralegals, Mr. Ward and Mr. Valenzuela shall be used by CONSULTANT for the specific purpose of providing analytical support to CONSULTANT in the subject of cannabis regulation.
2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONSULTANT or under CONSULTANT’s strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT’s competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY’s confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not employees of CITY and shall at all times be under CONSULTANT’s exclusive direction and control. CONSULTANT shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers’ compensation insurance and the like.

2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT’s officers, employees, agents, contractors, subcontractors or sub-consultants is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT’s officers, employees, agents, contractors, subcontractors or sub-consultants fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or sub-consultant shall be promptly removed by CONSULTANT and shall not be re-assigned to perform any of the Work.

2.8 COMPLIANCE WITH LAWS: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT’s compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.

2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subcontractor, sub-consultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent
contractors and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and sub-consultants. CONSULTANT and all persons retained or employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor 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 to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

3.1. CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work to be performed hereunder. The policy shall provide coverage for CONSULTANT’s professional liability in an amount not less than One Million Dollars ($1,000,000) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention, deductible, or any other similar form of limitation on the required coverage except with the express written consent of CITY. A claims-made policy shall be acceptable if the policy further provides that; (i) the policy restrictive date coincides with or precedes the initiation of the Scope of Work (including subsequent policies purchased as renewals or replacements); and (ii) CONSULTANT shall notify the CITY of circumstances or incidents that might give rise to future claims. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from Work performed in connection with this Agreement.

3.2 CONSULTANT shall maintain the foregoing insurance coverage in full force until the Work under this Agreement is fully completed and accepted by CITY. The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT’s duty to indemnify, defend and hold harmless as set forth in this Agreement. CITY or its representatives shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

3.3 Prior to commencing performance of the Work, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval by the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

A. Provide the name and policy number of each carrier and policy;

B. Shall state that the policy is currently in force; and
C. Shall promise that such policy shall not be suspended, voided, or
canceled by either party, reduced in coverage or in limits except after thirty
(30) calendar days' prior written notice; however, ten (10) calendar days' prior written notice in the event of cancellation for nonpayment of premium shall be required.

IV. INDEMNIFICATION

4.1. CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, and its officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands awards, losses, defense costs (including without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT’s (or CONSULTANT’s subcontractors, if any) negligent performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents, or employees except such loss or damage which is caused by the sole negligence or willful misconduct of CITY. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitations upon the amount of indemnification to be provided by CONSULTANT.

V. TERMINATION

5.1 TERMINATION WITHOUT CAUSE: CITY may immediately terminate this Agreement at any time for convenience and without cause by giving CONSULTANT written notice of CITY’s intent to terminate this Agreement, which notice shall specify the effective date of such termination. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY’s written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY’s ability to terminate this Agreement for convenience as provided under this Section.

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly
perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, “Event of Default”) shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a “Default Notice”) which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONSULTANT shall cure the following Events of Defaults within the following time periods:

i. Within three (3) business days of CITY’s issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY’s employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY’s employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2.B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or

ii. Within fourteen (14) calendar days of CITY’s issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to
the following: (i) CONSULTANT’s refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONSULTANT’s failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT’s and/or its employees’ disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT’s refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY’s discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT’s issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY’s failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT’s Default Notice to CITY.

D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT’s performance under this Agreement pending CONSULTANT’s cure of any Event of Default by giving CONSULTANT written notice of CITY’s intent to suspend CONSULTANT’s performance (hereinafter, a “Suspension Notice”). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY’s ability to suspend this Agreement as provided herein.

E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a
limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:

i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;

ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;

iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT’s breach of the Agreement or to terminate the Agreement; or

iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY’s exercise of its remedies under this Agreement.

G. In the event CITY is in breach of this Agreement, CONSULTANT’s sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term “Documents and Data” means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications,
notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subcontractors and sub-consultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or sub-consultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.

CONSULTANT, on behalf of itself and on behalf of all Of Counsel to CONSULTANT, understands and agrees that, in the performance of the Work under this Agreement or in contemplation thereof, CONSULTANT shall interact with the City Attorney’s Office and may have access to privileged and/or private and/or confidential information which may be subject to, among other protections, the attorney-client privilege and/or work product privilege. CONSULTANT and its Of Counsel shall not disclose such information without the written authorization and consent of the City Attorney’s Office or the City Council acting as a body at a duly noticed meeting of the City Council. Should CONSULTANT or its Of Counsel make any such disclosure at any time and/or for any reason without obtaining prior written authorization and consent by the City Attorney’s Office, CONSULTANT and its Of Counsel shall be liable for any and all damages and shall defend and indemnify the CITY to the fullest extent of the law.

6.3 FALSE CLAIMS ACT: CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq. and the California False Claims Act, Government Code Section 12650 et seq.
6.4 **NOTICES:** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONSULTANT:**
Law Office Glenn Ward  
Calsada  
23283 Ventura Boulevard  
Woodland Hills, CA 91364  
Phone: (818) 477-0314  
Fax: (818) 473-4277  
E-mail: glenn@calsadlaw.com

**CITY:**
City of Cudahy  
Attn: City Manager  
5220 Santa Ana Street  
Cudahy, CA 90201  
Phone: (323) 773-5143  
Fax: (323) 771-2072

**CC:**  
Office of the City Attorney  
c/o Rick Olivarez, City Attorney  
Olivarez Madruga Lemieux O’Neill, LLP  
500 S. Grand Avenue, 12th Floor  
Los Angeles, CA 90071  
Phone: (213) 744-0099  
Fax: (213) 744-0093

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

6.5 **COOPERATION; FURTHER ACTS:** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.6 **SUBCONTRACTING:** CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with sub-consultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
6.7 **CITY’S RIGHT TO EMPLOY OTHER CONSULTANTS:** CITY reserves the right to employ other contractors in connection with the various projects worked upon by CONSULTANT.

6.8 **PROHIBITED INTERESTS:** CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.9 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.

6.10 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

6.11 **ATTORNEYS’ FEES:** If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys’ fees and all other costs of such action.

6.12 **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding on the successors and assigns of the Parties.

6.13 **NO THIRD PARTY BENEFIT:** There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

6.14 **CONSTRUCTION OF AGREEMENT:** This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
6.15 **SEVERABILITY**: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.16 **AMENDMENT; MODIFICATION**: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.

6.17 **CAPTIONS**: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.

6.18 **INCONSISTENCIES OR CONFLICTS**: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.

6.19 **ENTIRE AGREEMENT**: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.

6.20 **COUNTERPARTS**: This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONSULTANT and the remaining two original counterparts shall be retained by CITY.

(SIGNATURE PAGE TO FOLLOW)
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF CUDAHY

By: _____________________________

Jose Gonzalez, Mayor

LAW OFFICE OF GLENN WARD CALSADA

By: _____________________________

Glenn Ward Calinda

APPROVED AS TO FORM:

By: _____________________________

Name: ___________________________

Title: ___________________________
2018

FIRST AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT
(Law Office Of Glenn Ward Calsada Cannabis Regulation Consulting and Litigation Services)

THIS 2018 PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 21 day of August 2018 (hereinafter, the "Effective Date"), by and between the CITY OF CUDAHY, a municipal corporation ("CITY") and LAW OFFICE of GLENN WARD CALSADA (hereinafter, "CONSULTANT"). For the purposes of this Agreement CITY and CONSULTANT may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONSULTANT interchangeably.

WHEREAS, CITY wishes to engage CONSULTANT to provide specialized legal, analytical consulting services with respect to the City's efforts to develop, review and implement regulations, policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy; and

WHEREAS, CONSULTANT possesses the specialized training, skill, expertise and experience required to perform the services contemplated under this; and

WHEREAS, the execution of this Agreement is authorized pursuant to Sections 3.16.160(A) of the Cudahy Municipal Code; and

WHEREAS, the Original Agreement was approved by the Cudahy City Council for a one (1) year term at a Concurrent Special Meeting of the Cudahy City Council held September 25, 2017 under Agenda Item 5.A; and

WHEREAS, CITY now wishes to continue this Agreement with CONSULTANT on certain cannabis related activities in the City of Cudahy and to expand the CONSULTANT'S scope of work to include litigation and advocacy services as requested by the City Council on specified matters in consultation and cooperation with the City Attorney; and

WHEREAS, this Agreement was approved by the Cudahy City Council at its Regular Meeting of August 21, 2018, under Agenda Item No. 2.A.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:
I. ENGAGEMENT TERMS

1.1 SCOPE OF WORK:

A. Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform the services and tasks set forth in Exhibit "A" (hereinafter referred to as the "Scope of Work"). The Scope of Work is hereby amended to include litigation and advocacy services in the matter of Cudahy Citizens Challenging Council Corruption v. City Cudahy et al., LASC Case No. BS174212 (the "Litigation Matter"), which are to be performed in consultation and cooperation with the Office of the City Attorney, and such other litigation matters as may be requested by the City Council that arise out of or are otherwise based on the same facts and circumstances as the Litigation Matter. CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement, the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term "Work." CONSULTANT'S resume is attached hereto as Exhibit "B".

B. Section 1.1(A) notwithstanding, Section 5 of the Scope of Services is amended to state: "Consultant will provide clients, upon their request, with an analysis of proposed regulations and legislation and their potential impacts on the client's objectives."

C. Section 1.1(A) notwithstanding, Section 6 of the Scope of Services is deleted and repealed in its entirety.

1.2 TERM. This Agreement shall commence on the Effective Date first written above and shall remain in effect for a one (1) year term after the termination date of the Original Agreement.

1.3 COMPENSATION:

A. CONSULTANT shall perform the various services and tasks set forth in the Scope of Work at an hourly rate of Two Hundred and Fifty Dollars ($250) per hour.

B. This Agreement is approved by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal Code which requires City Council approval for contracts with a value in excess of Twenty-Five Thousand Dollars ($25,000). Accordingly, the City Manager, acting under the delegated authority of the City Council by approval of this Agreement, may authorize the payment of
fees and charges to CONSULTANT in excess of $25,000 during the Term of this Agreement.

1.4 PAYMENT OF COMPENSATION: Following the conclusion of each calendar month, CONSULTANT shall submit to CITY an itemized invoice indicating the services and tasks performed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's monthly compensation is a function of hours worked by CONSULTANT's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar day of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.

1.5 ACCOUNTING RECORDS: CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

1.6 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONSULTANT shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II. PERFORMANCE OF AGREEMENT

2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager, the City Attorney and the Personnel Manager (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all
purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the CITY Representatives or their designee.

2.2 CONSULTANT REPRESENTATIVE: CONSULTANT hereby designates Vincent Sarmiento, Esq. and Maribel S. Medina, Esq. (as Of Counsel) to act as its representative for the performance of this Agreement (hereinafter, "CONSULTANT Representative"). CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. CONSULTANT Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONSULTANT Representative shall constitute notice to CONSULTANT.

2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONSULTANT represents, acknowledges and agrees to the following:

A. CONSULTANT shall perform all Work skillfully, competently and to the highest standards of CONSULTANT's profession;

B. CONSULTANT shall perform all Work in a manner reasonably satisfactory to the CITY;

C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.);

D. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;

E. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and

F. All of CONSULTANT's employees and agents (including but not limited subcontractors and sub-consultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are
legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT’s own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT’s failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT’s employees, agents, contractors, subcontractors and sub-consultants. Such effort by CONSULTANT to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY’s acceptance of any work performed by CONSULTANT or on CONSULTANT’s behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONSULTANT’s profession.

2.5 **ASSIGNMENT:** The skills, training, knowledge and experience of CONSULTANT are material to CITY’s willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT’s duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY’s prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement. In recognition of the foregoing, CITY consents to CONSULTANT’s engagement and use of Vincent F. Sarmiento, Esq., Maribel S. Medina, Esq. and Carlos Valenzuela, paralegal and Lafayette N. Ward, paralegal, to perform services and tasks in the furtherance of CONSULTANT’s performance under this Agreement. Mr. Calsada, Mr. Sarmiento and their paralegals, Mr. Ward and Mr. Valenzuela shall be used by CONSULTANT for the specific purpose of providing analytical support to CONSULTANT in the subject of cannabis regulation.

2.6 **CONTROL AND PAYMENT OF SUBORDINATES: INDEPENDENT CONTRACTOR:** The Work shall be performed by CONSULTANT or under CONSULTANT’s strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this
Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not employees of CITY and shall at all times be under CONSULTANT's exclusive direction and control. CONSULTANT shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.

2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT's officers, employees, agents, contractors, subcontractors or sub-consultants is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, contractors, subcontractors or sub-consultants fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or sub-consultant shall be promptly removed by CONSULTANT and shall not be re-assigned to perform any of the Work.

2.8 COMPLIANCE WITH LAWS: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.

2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subcontractor, sub-consultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

2.10 INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and sub-consultants. CONSULTANT and all persons retained or
employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor 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 to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

3.1. CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work to be performed hereunder. The policy shall provide coverage for CONSULTANT's professional liability in an amount not less than One Million Dollars ($1,000,000) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention, deductible, or any other similar form of limitation on the required coverage except with the express written consent of CITY. A claims-made policy shall be acceptable if the policy further provides that; (i) the policy restrictive date coincides with or precedes the initiation of the Scope of Work (including subsequent policies purchased as renewals or replacements); and (ii) CONSULTANT shall notify the CITY of circumstances or incidents that might give rise to future claims. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from Work performed in connection with this Agreement.

3.2 CONSULTANT shall maintain the foregoing insurance coverage in full force until the Work under this Agreement is fully completed and accepted by CITY. The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT's duty to indemnify, defend and hold harmless as set forth in this Agreement. CITY or its representatives shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

3.3 Prior to commencing performance of the Work, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval by the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

A. Provide the name and policy number of each carrier and policy;

B. Shall state that the policy is currently in force; and

C. Shall promise that such policy shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits except after thirty (30) calendar days' prior written notice; however, ten (10) calendar days'
prior written notice in the event of cancellation for nonpayment of premium shall be required.

IV. **INDEMNIFICATION**

4.1. CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, and its officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands, awards, losses, defense costs (including without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT's (or CONSULTANT’s subcontractors, if any) negligent performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents, or employees except such loss or damage which is caused by the sole negligence or willful misconduct of CITY. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitations upon the amount of indemnification to be provided by CONSULTANT.

V. **TERMINATION**

5.1 **TERMINATION WITHOUT CAUSE:** CITY may immediately terminate this Agreement at any time for convenience and without cause by giving CONSULTANT written notice of CITY’s intent to terminate this Agreement, which notice shall specify the effective date of such termination. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY’s written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY’s ability to terminate this Agreement for convenience as provided under this Section.

5.2 **EVENTS OF DEFAULT; BREACH OF AGREEMENT:**

A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, “Event of Default”) shall occur. For all Events of Default, the Party alleging an Event of Default
shall give written notice to the defaulting Party (hereinafter referred to as a “Default Notice”) which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONSULTANT shall cure the following Events of Defaults within the following time periods:

i. Within three (3) business days of CITY’s issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY’s employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY’s employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2.B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or

ii. Within fourteen (14) calendar days of CITY’s issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2.B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT’s refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONSULTANT’s failure to fulfill or perform its obligations under this Agreement within the specified time or if no
time is specified, within a reasonable time; (iii) CONSULTANT’s and/or its employees’ disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT’s refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY’s discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT’s issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY’s failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT’s Default Notice to CITY.

D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT’s performance under this Agreement pending CONSULTANT’s cure of any Event of Default by giving CONSULTANT written notice of CITY’s intent to suspend CONSULTANT’s performance (hereinafter, a “Suspension Notice”). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY’s ability to suspend this Agreement as provided herein.

E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this
Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:

i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;

ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;

iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT’s breach of the Agreement or to terminate the Agreement; or

iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY’s exercise of its remedies under this Agreement.

G. In the event CITY is in breach of this Agreement, CONSULTANT’s sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term “Documents and Data” means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this
Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subcontractors and sub-consultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or sub-consultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY’s name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.

CONSULTANT, on behalf of itself and on behalf of all Of Counsel to CONSULTANT, understands and agrees that, in the performance of the Work under this Agreement or in contemplation thereof, CONSULTANT shall interact with the City Attorney’s Office and may have access to privileged and/or private and/or confidential information which may be subject to, among other protections, the attorney-client privilege and/or work product privilege. CONSULTANT and its Of Counsel shall not disclose such information without the written authorization and consent of the City Attorney’s Office or the City Council acting as a body at a duly noticed meeting of the City Council. Should CONSULTANT or its Of Counsel make any such disclosure at any time and/or for any reason without obtaining prior written authorization and consent by the City Attorney’s Office, CONSULTANT and its Of Counsel shall be liable for any and all damages and shall defend and indemnify the CITY to the fullest extent of the law.

6.3 FALSE CLAIMS ACT: CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq. and the California False Claims Act, Government Code Section 12650 et seq.

6.4 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:
CONSULTANT:

Law Office Glenn Ward
Calsada
23283 Ventura Boulevard
Woodland Hills, CA 91364
Phone: (818) 477-0314
Fax: (818) 473-4277
E-mail: glenn@calsadlaw.com

CITY:

City of Cudahy
Attn: City Manager
5220 Santa Ana Street
Cudahy, CA 90201
Phone: (323) 773-5143
Fax: (323) 771-2072

CC:

Office of the City Attorney
c/o Rick Olivarez, City Attorney
Olivarez Madruga Lemieux O’Neill, LLP
500 S. Grand Avenue, 12th Floor
Los Angeles, CA 90071
Phone: (213) 744-0099
Fax: (213) 744-0093

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

6.5 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.6 SUBCONTRACTING: CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with sub-consultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.

6.7 CITY’S RIGHT TO EMPLOY OTHER CONSULTANTS: CITY reserves the right to employ other contractors in connection with the various projects worked upon by CONSULTANT.

6.8 PROHIBITED INTERESTS: CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a bona
The employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.9 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.

6.10 **GOVERNING LAW ANDvenue:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

6.11 **ATTORNEYS’ FEES:** If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys’ fees and all other costs of such action.

6.12 **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding on the successors and assigns of the Parties.

6.13 **NO THIRD PARTY BENEFIT:** There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

6.14 **CONSTRUCTION OF AGREEMENT:** This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.

6.15 **SEVERABILITY:** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.16 **AMENDMENT; MODIFICATION:** No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF CUDAHY

By: [Signature]

Chris Garcia, Mayor

LAW OFFICE OF GLENN WARD CALSADA

By: [Signature]

Glenn Ward Calsada

APPROVED AS TO FORM:

By: [Signature]

Name: Richard Padilla

Title: Asst. City Dir.
EXHIBIT “A”
SCOPE OF WORK

EXHIBIT “A”
CONTRACT FOR CONSULTING SERVICES
SERVICES:

The services will include both technical and practical support to client. The technical support will involve review of land-use and zoning implications of the public policy goals. Additionally, legal support will address issues of preemption and compliance with existing local ordinances. The practical support will involve the communications and marketing of the selection process. Finally, the consultant will provide the political and ethical framework to staff and elected officials to successfully promote and adopt the goals and objectives.

Specifically:

1. Consultant will confer with the client and its staff, and any such other personnel as he/she may designate to review strategies and information to develop plan.

2. At the client’s discretion, consultant shall serve as the lead advocate on local issues in the event the client retains the services of other related representatives or consultants.

3. Consultant shall disclose the names of any organizations, individuals or entities that it currently represents prior to consummation of the subject agreement. Any additional retail clients shall be disclosed to existing client list prior execution of formal retainer.

4. Consultant will review and monitor legislation under consideration, proposed and adopted administrative rules and regulations, and other developments at the federal, state and local levels in order to advise the client.

5. Consultant will provide clients with an analysis of proposed regulations and legislation, and their potential impacts on the client’s objectives.

6. Consultant will furnish client with a monthly activity report and additional communications that include:
   a. Status of legislative, regulatory and public affairs initiatives advancing the client’s goals and objectives.
   b. Meetings with elected officials, staff, experts and the public.
   c. Research and analysis of adopted and proposed regulations and legislation, and their impacts on the client’s goals and objectives.
d. Attendance at conferences, campaigns and special events that advance the client's goals and objectives.

c. Review and comments on proposed regulatory and legislative language.

7. Consultant does not warrant, nor make assurances, that the above-referenced goals and objectives shall be met. Consultant does agree to effectively advocate and represent the interests of the client to achieve the objective.
2017
PROFESSIONAL SERVICES AGREEMENT
(Law Office Of Glenn Ward Calsada Cannabis Regulation Consulting Services)

THIS 2017 PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 25th day of September 2017 (hereinafter, the "Effective Date"), by and between the CITY OF CUDAHY, a municipal corporation ("CITY") and LAW OFFICE of GLENN WARD CALSADA (hereinafter, "CONSULTANT"). For the purposes of this Agreement CITY and CONSULTANT may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONSULTANT interchangeably.

WHEREAS, CITY wishes to engage CONSULTANT to provide specialized legal, analytical consulting services with respect to the City’s efforts to develop, review and implement regulations, policies and procedures for the regulation of certain cannabis-related activities in the City of Cudahy; and

WHEREAS, CONSULTANT possesses the specialized training, skill, expertise and experience required to perform the services contemplated under this; and

WHEREAS, the execution of this Agreement is authorized pursuant to Sections 3.16.160(A) of the Cudahy Municipal Code.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

I.

ENGAGEMENT TERMS

1.1 SCOPE OF WORK:

A. Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform the services and tasks set forth in Exhibit "A" (hereinafter referred to as the "Scope of Work"). CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement, the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term "Work." CONSULTANT'S resume is attached hereto as Exhibit "B".
B. Section 1.1(A) notwithstanding, Section 5 of the Scope of Services is amended to state: "Consultant will provide clients, upon their request, with an analysis of proposed regulations and legislation and their potential impacts on the client’s objectives."

C. Section 1.1(A) notwithstanding, Section 6 of the Scope of Services is deleted and repealed in its entirety.

1.2 **TERM.** This Agreement shall have a term of one (1) year commencing from the Effective Date.

1.3 **COMPENSATION:**

A. CONSULTANT shall perform the various services and tasks set forth in the Scope of Work at an hourly rate of Two Hundred and Fifty Dollars ($250) per hour.

B. It is anticipated that CONSULTANT’s total aggregate fees and charges during the Term of this Agreement will not exceed the sum of Twenty Thousand Dollars ($20,000). The foregoing notwithstanding, this Agreement is approved by the City Council pursuant to subsection (B) of Section 3.16.160 (Professional Services; Multi-contracts) of the Cudahy Municipal which requires City Council approval for contracts with a value in excess of Twenty-Five Thousand Dollars ($25,000). Accordingly, the City Manager, acting under the delegated authority of the City Council by approval of this Agreement, may authorize the payment of fees and charges to CONSULTANT in excess of $20,000 up to $25,000 during the Term of this Agreement.

1.4 **PAYMENT OF COMPENSATION:** Following the conclusion of each calendar month, CONSULTANT shall submit to CITY an itemized invoice indicating the services and tasks performed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT’s monthly compensation is a function of hours worked by CONSULTANT’s personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar day of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.
1.5 **ACCOUNTING RECORDS:** CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

1.6 **ABANDONMENT BY CONSULTANT:** In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONSULTANT shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II. **PERFORMANCE OF AGREEMENT**

2.1 **CITY'S REPRESENTATIVES:** The CITY hereby designates the City Manager, the City Attorney and the Personnel Manager (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the CITY Representatives or their designee.

2.2 **CONSULTANT REPRESENTATIVE:** CONSULTANT hereby designates Vincent Sarmiento to act as its representative for the performance of this Agreement (hereinafter, "CONSULTANT Representative"). CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. CONSULTANT Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONSULTANT Representative shall constitute notice to CONSULTANT.

2.3 **COORDINATION OF SERVICE: CONFORMANCE WITH REQUIREMENTS:** CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONSULTANT
shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 **STANDARD OF CARE; PERFORMANCE OF EMPLOYEES:** CONSULTANT represents, acknowledges and agrees to the following:

A. CONSULTANT shall perform all Work skillfully, competently and to the highest standards of CONSULTANT’s profession;

B. CONSULTANT shall perform all Work in a manner reasonably satisfactory to the CITY;

C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.);

D. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;

E. All of CONSULTANT’s employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and

F. All of CONSULTANT’s employees and agents (including but not limited subcontractors and sub-consultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT’s own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT’s failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT’s employees, agents, contractors, subcontractors and sub-consultants. Such effort by CONSULTANT to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY’s acceptance of any work performed by CONSULTANT or on CONSULTANT’s behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of
CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONSULTANT's profession.

2.5 **ASSIGNMENT:** The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement. In recognition of the foregoing, CITY consents to CONSULTANT's engagement and use of Vincent F. Sarmiento, Esq. and Carlos Valenzuela, paralegal to perform services and tasks in the furtherance of CONSULTANT's performance under this Agreement. Mr. Calzada and Mr. Valenzuela shall be used by CONSULTANT for the limited purpose of providing analytical support to CONSULTANT in the subject of cannabis regulation.

2.6 **CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR:** The Work shall be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not employees of CITY and shall at all times be under CONSULTANT's exclusive direction and control. CONSULTANT shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.

2.7 **REMOVAL OF EMPLOYEES OR AGENTS:** If any of CONSULTANT's officers, employees, agents, contractors, subcontractors or sub-consultants is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the
adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT’s officers, employees, agents, contractors, subcontractors or sub-consultants fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or sub-consultant shall be promptly removed by CONSULTANT and shall not be re-assigned to perform any of the Work.

2.8 COMPLIANCE WITH LAWS: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT’s compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.

2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subcontractor, sub-consultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

2.10 INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and sub-consultants. CONSULTANT and all persons retained or employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor 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 to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

3.1 CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work to be performed hereunder. The policy shall provide coverage for CONSULTANT’s professional liability in an amount not less than One Million Dollars ($1,000,000) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention, deductible, or any other similar form of limitation on the required coverage except with the express written consent of CITY. A claims-made policy shall be acceptable if the policy further provides that; (i) the policy restrictive date coincides with or precedes the initiation of the Scope of Work (including subsequent policies purchased as renewals or replacements); and (ii) CONSULTANT shall notify the CITY of circumstances or incidents that might give rise to future claims. If insurance is terminated for any reason, CONSULTANT agrees to purchase an
extended reporting provision of at least two (2) years to report claims arising from Work performed in connection with this Agreement

3.2 CONSULTANT shall maintain the foregoing insurance coverage in full force until the Work under this Agreement is fully completed and accepted by CITY. The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT’s duty to indemnify, defend and hold harmless as set forth in this Agreement. CITY or its representatives shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

3.3 Prior to commencing performance of the Work, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval by the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

A. Provide the name and policy number of each carrier and policy;

B. Shall state that the policy is currently in force; and

C. Shall promise that such policy shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits except after thirty (30) calendar days’ prior written notice; however, ten (10) calendar days’ prior written notice in the event of cancellation for nonpayment of premium shall be required.

IV. INDEMNIFICATION

4.1 CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, and its officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands, awards, losses, defense costs (including without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT’s (or CONSULTANT’s subcotractors, if any) negligent performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents, or employees except such loss or damage which is caused by the sole negligence or willful misconduct of CITY. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitations upon the amount of indemnification to be provided by CONSULTANT.

V. TERMINATION

Page 7
5.1 **TERMINATION WITHOUT CAUSE:** CITY may immediately terminate this Agreement at any time for convenience and without cause by giving CONSULTANT written notice of CITY's intent to terminate this Agreement, which notice shall specify the effective date of such termination. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY's written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY's ability to terminate this Agreement for convenience as provided under this Section.

5.2 **EVENTS OF DEFAULT: BREACH OF AGREEMENT:**

A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONSULTANT shall cure the following Events of Defaults within the following time periods:

i. Within three (3) business days of CITY’s issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY’s employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY’s employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure
the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or

ii. Within fourteen (14) calendar days of CITY’s issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT’s refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONSULTANT’s failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT’s and/or its employees’ disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT’s refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY’s discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT’s issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY’s failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT’s Default Notice to CITY.
D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT’s performance under this Agreement pending CONSULTANT’s cure of any Event of Default by giving CONSULTANT written notice of CITY’s intent to suspend CONSULTANT’s performance (hereinafter, a “Suspension Notice”). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY’s ability to suspend this Agreement as provided herein.

E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:

i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;

ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;

iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT’s breach of the Agreement or to terminate the Agreement; or

iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY’s exercise of its remedies under this Agreement.

G. In the event CITY is in breach of this Agreement, CONSULTANT’s sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.
5.3 **SCOPE OF WAIVER:** No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 **SURVIVING ARTICLES, SECTIONS AND PROVISIONS:** The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. **MISCELLANEOUS PROVISIONS**

6.1 **DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY** All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term “Documents and Data” means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subcontractors and sub-consultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or sub-consultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

6.2 **CONFIDENTIALITY:** All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
6.3  **FALSE CLAIMS ACT:** CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq, and the California False Claims Act, Government Code Section 12650 et seq.

6.4  **NOTICES:** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONSULTANT:**

Law Office Glenn Ward
Calsada
23283 Ventura Boulevard
Woodland Hills, CA 91364

Phone: (818) 477-0314
Fax: (818) 473-4277
E-mail: glenn@calsadlaw.com

**CITY:**

City of Cudahy
Attn: City Manager
5220 Santa Ana Street
Cudahy, CA 90201
Phone: (323) 773-5143
Fax: (323) 771-2072

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

6.5  **COOPERATION; FURTHER ACTS:** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.6  **SUBCONTRACTING:** CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with sub-consultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
6.7 **CITY’S RIGHT TO EMPLOY OTHER CONSULTANTS:** CITY reserves the right to employ other contractors in connection with the various projects worked upon by CONSULTANT.

6.8 **PROHIBITED INTERESTS:** CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.9 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.

6.10 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

6.11 **ATTORNEYS’ FEES:** If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys’ fees and all other costs of such action.

6.12 **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding on the successors and assigns of the Parties.

6.13 **NO THIRD PARTY BENEFIT:** There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

6.14 **CONSTRUCTION OF AGREEMENT:** This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
6.15 **SEVERABILITY:** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.16 **AMENDMENT; MODIFICATION:** No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.

6.17 **CAPTIONS:** The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.

6.18 **INCONSISTENCIES OR CONFLICTS:** In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.

6.19 **ENTIRE AGREEMENT:** This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.

6.20 **COUNTERPARTS:** This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONSULTANT and the remaining two original counterparts shall be retained by CITY.

(SIGNATURE PAGE TO FOLLOW)
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF CUDAHY

By: __________________________

Jose Pulido, City Manager

LAW OFFICE OF GLENN WARD CALSADA

By: __________________________

Glenn Ward Calsada

APPROVED AS TO FORM:

By: __________________________

Name: __________________________

Title: __________________________
EXHIBIT “A”
SCOPE OF WORK

EXHIBIT “A”
CONTRACT FOR CONSULTING SERVICES

SERVICES:

The services will include both technical and practical support to client. The technical support will involve review of land-use and zoning implications of the public policy goals. Additionally, legal support will address issues of preemption and compliance with existing local ordinances. The practical support will involve the communications and marketing of the selection process. Finally, the consultant will provide the political and ethical framework to staff and elected officials to successfully promote and adopt the goals and objectives.

Specifically:

1. Consultant will confer with the client and its staff, and any such other personnel as he/she may designate to review strategies and information to develop plan.

2. At the client’s discretion, consultant shall serve as the lead advocate on local issues in the event the client retains the services of other related representatives or consultants.

3. Consultant shall disclose the names of any organizations, individuals or entities that it currently represents prior to consummation of the subject agreement. Any additional retail clients shall be disclosed to existing client list prior execution of formal retainer.

4. Consultant will review and monitor legislation under consideration, proposed and adopted administrative rules and regulations, and other developments at the federal, state and local levels in order to advise the client.

5. Consultant will provide clients with an analysis of proposed regulations and legislation, and their potential impacts on the client’s objectives.

6. Consultant will furnish client with a monthly activity report and additional communications that include:
   a. Status of legislative, regulatory and public affairs initiatives advancing the client’s goals and objectives.
   b. Meetings with elected officials, staff, experts and the public.
   c. Research and analysis of adopted and proposed regulations and legislation, and their impacts on the client’s goals and objectives.
d. Attendance at conferences, campaigns and special events that advance the client's goals and objectives.

e. Review and comments on proposed regulatory and legislative language.

7. Consultant does not warranty, nor make assurances, that the above-referenced goals and objectives shall be met. Consultant does agree to effectively advocate and represent the interests of the client to achieve the objective.
STAFF REPORT

Date: September 17, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Richard Iglesias, Deputy City Clerk
Subject: Discuss and Consider Placing a Resolution on the Council Agenda, Amending the Rules Regarding Public Comment Speaking Time at City Council Meetings

RECOMMENDATION

The City Council is requested to discuss, and consider placing a Resolution on the Council agenda amending the rules regarding public comment speaking time at City Council Meetings.

BACKGROUND / ANALYSIS

On March 14, 2019 the City Council adopted Resolution No. 16-12 amending the rules of decorum to be conducted at City Council meetings. Part of those rules established was allocating two (2) minutes in public speaking time for both public comment and public hearing items.

On August 20, 2019, Council Member Guerrero requested an agenda item calling for public comment speaking time to increase to three (3) minutes.

CONCLUSION

The City Council is requested to discuss, and consider placing a Resolution on the Council agenda amending the rules regarding public comment speaking time at City Council Meetings.
FINANCIAL IMPACT

No Financial Impact.

ATTACHMENT

A. None.