

## **Request For Proposals**

**To Provide Professional Traffic Signal Maintenance Services  
for the City of South El Monte**



**RFP Release Date: September 14, 2017**

**RFP Response Due: 5:00 p.m. October 25, 2017**

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## **I. General Information**

### Community Profile

Incorporated in 1958, the City of South El Monte is an industrial community of approximately 21,000 residents and encompasses 2.3 square miles. This “Industrial Community” is located approximately 13 miles east of downtown Los Angeles and is adjacent to two major freeways and a major State Route in the San Gabriel Valley.

South El Monte offers a good blend of older and younger residents working in the same dedication and community spirit that the city was founded upon. Both the residents and business community are working together to make the community a better place to live and work.

After almost six decades, the City of South El Monte has matured into a viable commercial and industrial base, with over 2,400 businesses within 2.3 square miles. The City is currently focusing on improving the environment of the community and making it a better place to live and work.

### Overview

The City is requesting the services of a contracting firm which specializes in providing traffic signal maintenance and non-emergency routine maintenance. The City has 21 traffic signals which require routine Preventive maintenance and non-emergency maintenance. The City also has 4 locations with flashing beacons that also require maintenance. The City currently has 21 controllers and a variety of detection systems.

The selected firm will be required to have qualified traffic technicians that have demonstrated experience in traffic signal interconnect systems, and pre-emption and priority control systems. The firm’s assigned personnel should also have the ability to troubleshoot and diagnose problems with all our operation systems.

The total amount of work available will be a function of routine traffic signal maintenance plus the amount of work that is required due to normal “wear and tear”, collision damage, vandalism and other factors that may result in the need for traffic signal maintenance services. The City expects traffic signal technicians to be regularly assigned to the City as necessary to provide preventive maintenance.

## **II. PURPOSE & SERVICES DESCRIPTION**

The purpose of this Request for Proposals (RFP) is to select the most-qualified Contractor to provide Professional Traffic Signal Maintenance Services for the City of South El Monte. The City wishes to obtain Traffic Signal Maintenance Services under a Professional Services Agreement for a term of two (2) years, with an option to extend for an additional three (3) years if services are deemed to be satisfactory. The City will award no more than one contract.

The Professional Traffic Signal Maintenance Services includes, but is not limited to, cleaning, inspecting, and maintaining traffic signals.

The Contractor shall prepare final Traffic Signal Maintenance services bid documents (e.g. descriptions of services, fee and rate schedule, bid proposal) and submit their proposal to the City Clerk (Attn: R. Juarez, City of South El Monte, 1415 Santa Anita Avenue, South El Monte, CA 91733), no later than 5:00 p.m. on October 25<sup>th</sup>, 2017.

### **III. SCOPE OF SERVICES**

#### **General Requirements**

The following is a summary of the scope of services to be performed by the Contractor. The City desires to acquire Traffic Signal Maintenance services from a Contractor who possesses certified personnel, vehicles and equipment, and materials as necessary to maintain the City's traffic signals and related equipment.

The payment of prevailing wage is **required** and all contractors submitting a proposal. **must** be registered with the Department of Industrial Relations ("DIR") in order to be considered for award. Additionally, due to changes to Public Contract Code 4104(a) (1), if any subcontractors are utilized, the DIR registration number of the subcontractors must be disclosed.

#### **Specific Requirements**

The scope of services may include, but will not be limited to the following:

#### **Technical Services and Maintenance Personnel**

The selected firm will be required to have available, and readily accessible, all required vehicles, tools, equipment, apparatus, facilities, and materials to perform all work necessary to maintain the traffic signals and related equipment as listed in this solicitation in compliance with current Caltrans standards and specifications.

The selected firm will be required to perform routine traffic signal maintenance services at an established flat rate fee per intersection, with additional non-routine maintenance services compensated at rates established pursuant to an agreed fee schedule. The selected firm will be required to provide regular field preventive maintenance of existing controller assemblies and cabinets by qualified personnel that meet or exceed the following qualifications:

- One Level Three technician with certification by the International Municipal Signal Association (IMSA) with at least three (3) years of experience in traffic signal repairs;
- One Level Two technician with certification by the International Municipal Signal Association (IMSA) with at least three (3) years of experience in traffic signal repairs;
- Familiarity with programming and repair of all traffic signal controllers;

- Proficient in programming of conflict monitors (CMU) and malfunction management units (MMU);
- Familiarity with basic traffic signal timing principals;
- Proficient with all types of detection systems; video, loops and wireless.
- Familiarity with hardwire and wireless communications technology including troubleshooting, installations and adjustment of external and internal modems;
- Familiarity with various battery backup systems to include installation, programming and testing procedures, and maintenance;
- Ability to perform cabinet modifications and up-grades as required by the City;
- Technician(s) shall be available by phone 24-hours a day

The selected firm will be required to have a complete traffic signal laboratory located in Southern California, or will be required to include the use of a certified traffic signal laboratory as part of its services (the name and location of the laboratory shall be listed in the firm's proposal).

The selected firm will be required to maintain a stock of common replacement parts. The equipment may include, but is not limited to the following: Model 170E traffic signal controllers and other controllers as needed such as Nema Traconex390 and TS-2 Econolite, 24VDC Power Supply, MMU's/CMU's, flash transfer relays, load switches, detectors, video processors, video detection units, battery backup system unit, batteries, LED red/yellow/green lamps, LED pedestrian signals, and pedestrian activation buttons.

The selected firm may offer alternatives to existing equipment to meet the changing demand as it occurs, when directed by City.

The selected firm will be required to assist the City with the calibrating of traffic signal timing and progression; timing of traffic signals shall only be changed under the approved general direction of the City.

The selected firm will be required to cooperate with the City Police representative, Los Angeles County Sheriff's Department, the City Manager and responsible City department heads in cases of emergency. The selected firm will be required to refer all questions from the public to the City.

### **Preventive Maintenance**

The selected firm will be required to provide preventive maintenance for the traffic signal equipment as listed in this Solicitation. The selected firm will be required to furnish and use a preventive maintenance checklist form approved by the City for each inspection. The selected firm will be required to provide one electronic copy of the maintenance checklist to the City following each inspection, to maintain a copy of the maintenance checklist in the traffic signal

controller cabinet, and to maintain a copy of the maintenance checklist at the Contractor's office of records.

The selected firm will be required to follow a program of continuing comprehensive maintenance designed to eliminate or reduce the incidence of malfunctions, reduce complaints, and extend the useful life of the equipment. The program will include, but not be restricted to, the following:

#### Routine Maintenance (Once Every Two Months)

- Preventive Maintenance (PM) checklist Form: Maintain a copy of the Preventive Maintenance Checklist Form approved by the City at each traffic signal. The PM Checklist Form will be completely filled out during each maintenance inspection and during any time repairs are made to the traffic signal controller or any related equipment in the controller cabinet or the signal equipment at the intersection (detector loops, pedestrian heads, signal heads, lenses, lamps and signal poles, etc.).
- Controller Cabinet Mounting: Check the snugness of the nuts on the traffic signal cabinet anchor bolts, tighten, if necessary, being sure not to distort the cabinet door opening by over tightening.
- Controller Cabinet Foundation Seal: If standing water or evidence of water is present inside the bottom of the cabinet, check the seal between the bottom of the foundation for deterioration, and to report the need to reseal the cabinet foundation as necessary.
- Door Gaskets: Check all door gaskets on the controller cabinet, service cabinet and any other enclosures of evidence of moisture or deterioration. Report the need to completely replace any gaskets showing signs of leaking or deterioration.
- Cabinet Vents: Check the vents in both the cabinet door and above the door, or at the top of the cabinet to ensure that they are free of any foreign material. Air Filter: Vacuum, wash, replace or knock out any dust accumulated in air filters. Take appropriate action based on the condition of the filter.
- Cabinet Fan: Verify that cabinet fans(s) operate properly with a minimum of noise.
- Thermostat: Verify that the cabinet fan thermostat is set at 96 degrees.
- Interior Light: Verify the proper operation of the cabinet's interior light.
- Door Panel Harnesses: Check the harnesses leading from the main panel and auxiliary panels on the cabinet door to ensure they are not being pinched and do not bind against the cabinet door. Adjust, if necessary.
- Hinges and Locks: Check the free movement of all doors, latching assemblies and locks on the controller cabinet, service cabinet and any other enclosures. Use a minimum of oil or spray lubricant and remove any excess.
- Vacuum Cabinet: Blow or brush off shelves, terminal blocks and components and thoroughly vacuum the interior of the cabinet.

- **Insect or Rodent Infestation:** Check for signs of ants, wasps or other insects or rodents within the cabinet. Use appropriate insect traps or powders if any positive findings are discovered. More serious problems shall be reported to the City.
- **Cabinet Grounding:** Using appropriate equipment, check annually the resistance between AC and ground.
- **Service Connections:** Verify the neutral, ground and power connections are secure in the controller and service cabinets.
- **Plug-In Components:** Check that each plug-in component (rack mount detectors, relays, load switches, etc.) fits tightly and securely.
- **Ground Fault Receptacle:** Verify the proper operation of the “Test” and “Reset” buttons on GFCI type outlets.
- **Intersection Records:** Ensure that all intersection cabinet wiring diagrams are present and up to date.
- **Controller Operation:** Manually place vehicle and pedestrian calls on each phase through the cabinet test switches or the controller keypad, to verify controller servicing of each active phase. Check controller logs for any faults that have occurred and make note for the file. Verify signal timing is current with timing sheet in cabinet. Confirm controller time and dates are correct. (Especially after day light savings time change).
- **Conflict Monitor/Malfunction Management Unit:** Verify time and dates are correct in any CMU/MMU with an internal clock.
- **Detector Operation (inductive loops):** Verify the detection zones for each detector by observing the turn-on of the appropriate detection indicator as a vehicle passes over the detector loop(s). Check also that a call is placed on the correct controller phase.
- **Detector Operation (video detection):** Verify camera operation by monitoring the vehicle call on the video controller unit. Also, verify the calls going to the detector call page in the controller.
- **Equipment Displays and Indicators:** Verify that all LED and LCD displays and indications on all cabinet equipment are working properly.
- **Pre-Emption Devices:** Test any pre-emption devices for proper operation.
- **System Telemetry:** Check the operation of telemetry on controller display and phone modem, if equipped, located in the cabinet. Report any malfunction immediately.
- **Battery Back-Up System:** Check battery backup display for AC IN, UPS OUTPUT, and INVERTER indications. All should be on when utility power is supplied to the cabinet. Also, check battery level and load level displays. Test batteries quarterly. Make note if either is out of range. Keep records of events recorded and total battery run time between maintenance checks to help indicate problem intersections.
- Check all battery connections to ensure they are clean and secure.
- **Safety Lighting (Night Check):** Institute a routine night time check of safety lights and illuminated street name signs at all signalized intersections every other month and submit a report and an estimate for any repairs necessary to the City for approval.

Intersection Walk Around (included as a part of Routine Maintenance once every two months):

- **General:** Remove any easily removable, unauthorized signs, stickers and posters and note any graffiti existing on signal poles or equipment. Notify City of any graffiti observed on traffic signal equipment.
- **Signal Heads:** Verify that all vehicle and pedestrian heads properly display all indications and the signals are not damaged. Verify the alignment of all heads to the intended direction. Verify that all back plates, visors and doors are visibly secure. Report any landscaping that restricts the view of signal heads to the City (Signal heads should be visible from 250 feet). Labor and material costs to replace malfunctioning displays with Caltrans approved LED units will be paid in addition to the established flat rate fee per intersection.
- **Pedestrian Equipment:** Check all pedestrian push buttons (and bicycle push buttons where provided) and signals by hand to ensure that they are securely mounted and operating properly. Replace damaged or malfunctioning buttons with larger size ADA type buttons as necessary.
- **Internally illuminated street name signs (IISNS):** Verify that the IISNS is adequately connected to frame, clamp and brackets, and no panel is broken or missing.
- **Miscellaneous:** Check all detector loops for sealant deterioration, exposed wire, etc.

Semi-Annual Maintenance:

- **Uninterrupted Power Supply (Back-Up) System:**
  1. Load test all batteries and record on paper and with silver marking pen on each battery the date and load test results.
  2. Perform 15 minute test.
  3. Verify bypass switch is operating properly
  4. Verify unit is set for 50% fully operational and 50% red flash.
  5. Inspect and test battery charging system.
- **Video Detection System Where Applicable:** Insure proper operation, clean video detection camera lens as needed.
- **Signal Lenses and Signs:** Clean and polish all signal lenses and reflectors, align all signal heads and adjust all mast arm mounted street name signs.
- **Terminal Connections:** Test, semi-annually or following any wiring repair, each terminal screw by backing off slightly then retightening to confirm that it is secure.
- **Check:** All pull boxes for structural defects, insect or rodent infestations, and properly secured lids.
- **Verify timing charts to controllers.** If they are not correct contact City staff to verify differences.
- **Report significant areas of rust on cabinet exterior and signal poles to City staff.**



Records:

Intersection Records

- (a) Inventory List: Maintain an inventory list of the equipment in the controller cabinet at each location. The inventory list shall include the model, manufacture, serial number and quantity of each piece of equipment and installation date. The inventory list shall be continually updated and a copy shall be furnished to the City every six months.
  
- (b) Preventive Maintenance (PM) Checklist Form: Maintain a copy of the Preventive Maintenance Checklist Form approved by the City at each intersection. The PM checklist form shall be completely filled out during each routine maintenance inspection and during any time repairs are made to the controller or any related equipment in the controller cabinet or the signal equipment at the intersection (detector loops, pedestrian heads, signal heads, lenses, lamps and signal poles, etc.).

**Monthly Activity Report**

Provide a computerized monthly activity report to the City by the fifteenth working day of each month for the previous month. The report shall be provided both as a printout and as a Microsoft Excel Spreadsheet compatible computer file transmitted by e-mail or on a media storage unit (CD or Flash Drive) and shall include the following:

- (a) Time the service calls were received, time arrived at the intersection, the response time, the materials used, and a special listing of intersections with three or more calls in one month.
  
- (b) A complete record of all work that was performed on the traffic signal equipment during the previous month including the make, model, and serial number of any major components or other equipment that was newly installed at each intersection.
  
- (c) Time and date the PM work was performed.

**Pending Repair List**

Provide a monthly report of all pending repair work needed at each intersection.

Compensation for all routine "Preventive Maintenance" work identified above will be paid at an established flat rate fee per intersection for those intersections maintained in any given month, in accordance with the Cost Proposal, Schedule A, included in this solicitation and completed and returned by the selected firm in its Proposal. (For clarification, each intersection will be billed to

the City no more than once every other month for routine preventive maintenance work). No additional or separate payment will be made for labor and materials, vehicles, equipment, or for daily travel time from the selected firm's base of operations to the City.

Special Note: The selected firm will be required to assign a sufficient number of traffic signal technicians to the City as may be necessary to provide routine "Preventive Maintenance" to each traffic signal, as described in this Solicitation. The City expects traffic signal technicians to be regularly assigned to the City as necessary to provide routine preventive maintenance. An inability to provide maintenance to each traffic signal every other month may cause the selected firm to be subject to liquidated damages.

### **Traffic Signal Interconnect Systems**

Provide a quarterly (i.e. every three months) systems check to ensure traffic signal interconnect systems function in accordance with the timing plans. Investigate and determine causes for any performance issues (i.e. faulty pedestrian bush buttons, faulty vehicle detection, faulty communication, etc.), and recommend appropriate repairs necessary for system operation in accordance with the timing plan.

Special Note: Maintenance of the traffic signal interconnect systems is a critical component of the City's desired services. The selected firm will be required to have qualified traffic signal technicians that have demonstrated experience in maintaining traffic signal interconnect systems, with a proven ability to troubleshoot and diagnose problems with the efficient operation of these systems.

Compensation for all traffic signal interconnect systems maintenance work identified above will be considered as included the established flat rate fee paid per intersection for routine "Preventive Maintenance" work, in accordance with the Cost Proposal, Schedule A, included in this Solicitation and completed and returned by the selected firm in its Proposal. No additional or separate payment will be made for monitoring the function and operations of traffic signal interconnect systems.

### **Underground Service Alert (Dig Alert) Monitoring**

The selected firm will be required to adequately mark all traffic signal conduit and equipment on behalf of the City in accordance with California Government Code Section 4216 et seq. The City's designated representative will monitor notifications submitted by Underground Service Alert (USA) to the City, and will furnish applicable notifications to a representative of the selected firm to coordinate the marking of any signalized intersections that may be scheduled for construction work or excavations as evidenced by notification from USA. The selected firm shall

establish a process for monitoring and tracking the marking of any affected intersections; an intersection record log shall be created, with the USA notification and corresponding action noted in the controller, with a copy provided to the City. The selected firm shall assume all liability for satisfying the City's obligations to adequately identify underground structures in accordance with this law.

Compensation for providing USA - Dig Alert services identified above will be paid at a flat rate per occurrence in accordance with the Cost Proposal, Schedule A, included in this Solicitation and completed and returned by the selected firm in its Proposal. No additional or separate payment will be made for daily travel time from the selected firm's base of operations to the City.

### **Warranty Service**

During the period of warranty, the selected firm will be required to coordinate all communication between manufacturer, installing contractor and the City regarding any warranty service; and to notify the City of any undue delays in response by the manufacturer or installing contractor and details of each incident. No additional, or separate, compensation shall be paid for warranty service work.

### **Meetings**

The assigned traffic signal technician shall be available to meet with the City's designated representative on a weekly basis or as needed at a mutually agreed upon time and place in the City to review each week's maintenance activities. The assigned traffic signal maintenance supervisor shall be similarly available to meet with the City's designated representative on a monthly basis.

No additional, or separate, compensation shall be paid for attending meetings, which shall be considered as included in the compensation paid for all the various services provided hereunder.

## **IV. INFORMATION TO BE INCLUDED IN THE QUALIFICATIONS SUBMITTAL (PROPOSAL)**

1. General information about Contractor (i.e. location of office(s), years in business, organization chart, number and titles of staff, and any certifications or degrees).
2. Name, title, experiences and qualifications of the personnel that will be assigned to the City to perform the Scope of Services.

3. A list of past and current clients for Traffic Signal Maintenance services of approximately the same size as the City of South El Monte. Provide a brief description of the services provided and dates of service.
4. Provide a statement of how your firm differentiates itself from other firms,
5. Provide a conceptual plan for meeting the Scope of Services, in a manner that you believe is appropriate for the City. Indicate how the resources of your firm (e.g. number and type of personnel allocated by hours) will be allocated.
6. Provide a statement describing the degree of work that is to be subcontracted, if any.
7. A description of how your firm communicates with clients regarding the status of your assigned duties.
8. Report formats used to keep clients informed of project and maintenance status.
9. Flat rates for routine maintenance services (Attachment D).
10. List three (3) references for which your firm has provided traffic signal maintenance services for within the past five (5) years. Include the following for each reference:
  - a. Name, address, and phone number
  - b. Size and description of the reference
  - c. Dates of service and brief description of the services provided.
11. Provide any additional information you believe will be helpful to assist in the review of your proposal. Include any attachments, exhibits, or reports which may help the City gain an understanding of your firm's ability to provide traffic signal maintenance services to the City of South El Monte.
12. Fee proposal: The fee proposal shall include all tasks required to perform the work with a maximum not-to-exceed fee for each task and a grand total not-to-exceed fee. Costs shall be all inclusive, including all overhead, materials, equipment, hourly labor rate, and all other miscellaneous direct and indirect costs. The scope of work provided in this RFP will be used as a guideline. It will be the selected Contractor's responsibility to identify all necessary tasks and costs associated with the services and to ensure the services are provided in full compliance as required with Federal and State labor standards and regulations. The fee will be required to identify costs associated with but not limited to providing Traffic Signal Maintenance services. The Contractor shall provide its services for duration of the agreement for the approved scope of work and fee.
13. Three (3) copies of the Proposal which must not to exceed 25 pages (double sided pages counts as 2 pages) shall be submitted to the City Clerk (Attn: R. Juarez, City of South El Monte, 1415 Santa Anita Avenue, South El Monte, CA 91733), no later than 5:00 p.m. on October 25<sup>th</sup>, 2017.

14. Three (3) copies of a Cost Proposal for completing the proposed work shall be provided and may be placed in the same envelope as the Proposal. The proposer's fee for Traffic Signal Maintenance services shall include routine maintenance service rates.
15. **Attachment A** (“Affidavit of Non-Collusion”) to be signed and submitted with proposal.
16. Claims History – The proposer shall provide information on any litigation arising out of work related to their projects or their sub-Contractor’s projects for the last ten (10) years. Please refer to **Attachment B** (“Claims History”)

## **V. CORRECTIONS**

Corrections or revisions to the RFP and other documents prepared by the Contractor are anticipated and shall be considered part of the normal preparation process. No extension of time or fees shall be allowed for corrections as described herein.

## **VI. GENERAL INFORMATION**

1. The Contractor is expected to establish and maintain a close working relationship with City Staff throughout the duration of the agreement.
2. The payment of prevailing wage is **required** and all contractors submitting a proposal **must** be registered with the Department of Industrial Relations (“DIR”) in order to be considered for award. Additionally, due to changes to Public Contract Code 4104(a) (1), if any subcontractors are utilized, the DIR registration number of the subcontractors must be disclosed.
3. For the duration of the contract the selected Contractor shall maintain the same Site Manager, as specified in the Proposal and approved by the City. In the event that the authorized Site Manager terminates employment, the Contractor shall make a demonstrated and concerted effort to maintain the Site Manager in the key managerial position, unless extreme conditions prohibit continuance. Any substitution of the Site Manager will require written City approval.
4. This Request for Proposal does not commit the City to pay any cost incurred in the preparation of a response.

## **VII. INSURANCE REQUIREMENTS**

Refer to Section 9 (“Insurance”) of the Sample Professional Services Agreement included this RFP as **Attachment C** for insurance requirements.

## **VIII. PROPOSAL REVIEW**

All proposals will be reviewed by a Selection Committee comprised of City staff. The various significant criteria that will be considered in the evaluation of proposals are summarized below.

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The City’s final selection will not be dictated on any single factor or criteria including price. The relative importance of those factors involves judgment on the part of the Selection Committee and will include both objective and subjective analysis. A Contractor may be eliminated from consideration for failure to comply with any of the requirements, depending upon the critical nature of such requirements.

1. Meaningful experience providing traffic signal maintenance services
2. Cost
3. Compliance with Scope of Services (Section III)
4. Responsiveness and thoroughness of proposal
5. Personnel proposed work on the project and the qualifications of those individuals, reference checks, verification of certification, if applicable, and ability to satisfy insurance requirements
6. Any other factors determined by the City to be relevant to the performance of these services

The contract will be awarded, if at all, to the responsive and responsible bidder that submits the most advantageous Proposal to the City. The City reserves the right to waive minor irregularities and omissions in any submission. The City reserves the right to reject any or all submitted qualifications, and no representation is made that any contract will be awarded pursuant to this Request for Proposals. All costs incurred in the preparation of the qualifications submittal (proposals) in the submission of additional information, and/or in any other aspect of a qualifications submittal prior to the award of a written contract will be borne by the respondent. The City will provide only the staff assistance and documentation specifically referred to herein, and will not be responsible for any other cost or obligation that may be incurred by the respondent. All items submitted to the City shall become the property of the City. The Contractor selected will be required to sign the City's Professional Services Agreement prior to City Council approval, a copy of which will be provided upon request. The City Council has final authority in the selection of the Contractor.

Below is the anticipated schedule for the Contractor selection process:

Request for Proposal Posting/Mailing	September 14, 2017
Submittal Deadline	October 25, 2017 by 5:00 p.m.
Tentative Interview (if necessary)	Week of November 13 <sup>th</sup> , 2017
Tentative Final Selection/Negotiation	November 23, 2017
Tentative City Council Award	November 28, 2017
Tentative Contract Effective Date	December 18, 2017

For further information, contact Mr. Rene Salas, Public Works Director, at 626-579-6540.

**IX. CONTRACTOR AGREEMENT**

A sample of the City’s Professional Services Agreement is provided in this RFP as **Attachment C**. Your proposal shall contain a statement of the firm’s willingness to execute the contract with an indication of any contractual requirements for which the Contractor takes exception.

**END OF RFP**

## **ATTACHMENTS TO FOLLOW**

Attachment A	Affidavit of Non-Collusion
Attachment B	Claims History
Attachment C	Sample Professional Services Agreement
Attachment D	Flat Rates Sheets
Attachment E	City Intersection and Flashing Beacon list



**ATTACHMENT A**

**AFFIDAVIT OF NON-COLLUSION**

I state that I am \_\_\_\_\_ (title) of \_\_\_\_\_  
(name of firm) and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this Offer.

I state that:

- (1) The price(s) and amount of this Offer have been arrived at independently and without consultation, communication or agreement with any other Proposer or potential Proposer.
- (2) That neither the price(s) nor the amount of this Offer, and neither the approximate price(s) nor approximate amount of this Offer, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed before Solicitation opening.
- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit an Offer higher than this Offer, or to submit any intentionally high or noncompetitive Offer or other form of complementary Offer.
- (4) The Offer of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Offer.
- (5) \_\_\_\_\_ (name of firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as described in the attached appendix.

I state that \_\_\_\_\_ (name of firm) understands and acknowledges that the above representations are material and important, and will be relied on by the City of South El Monte in awarding the contract(s) for which this Offer is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the City of South El Monte of the true facts relating to the submission of Offers for this contract.

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Name of Company/Position)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public for California

My Commission Expires: \_\_\_\_\_

## **ATTACHMENT B**

### **CLAIMS HISTORY**

Each Contractor shall submit a summary of whether or not any of the following events have occurred within the past five (5) years and, if so, a brief description of the circumstances involved (including, without limitation, the names of parties involved, current status and final disposition of the matter of dispute):

Failure to disclose any circumstances requested in the following paragraphs is grounds for disqualification.

- Failure by Contractor or any sub-Contractor to enter into a contract to which it has received an award by a public entity.
- Forfeiture of a bid or proposal bond by proposer or any sub-Contractor.
- Termination for default under a contract awarded by a public entity to Contractor or any sub-Contractor.
- Debarment of Contractor or any sub-Contractor by any municipal, county, state, federal, or local agency (note: debarment is grounds for automatic disqualification).
- The filing of a lawsuit or arbitration in which the Contractor or a sub-Contractor was a defendant or cross-defendant at any time within the past five (5) years that involved the performance of project, program, or construction management services and that involved an amount in controversy sought to be recovered from Contractor or the sub-Contractor of more than \$100,000.00.
- Conviction of Contractor, a sub-Contractor, or any of their principals or officers for violation of a state or federal antitrust law involving bid rigging, collusion, or restriction on competition between bidders, or conviction of violating any other federal or state law relating to bidding or contract performance (note: such conviction is grounds for automatic disqualification).
- Any publications involving firm or principals alleging or claiming corruption (such claims are grounds for automatic disqualification).
- Any suspension, revocation, or other disciplinary proceeding relating to a contracting or professional license issued to proposer or a sub-Contractor.

## ATTACHMENT C

### SAMPLE PROFESSIONAL SERVICES AGREEMENT

#### PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is dated [month] [day], [year] (“Effective Date”) and is between the City of South El Monte, a California municipal corporation (“City”) and [Contractor’s Legal Name], a [Legal Form of Entity and state of formation, e.g., California corporation, limited partnership, limited liability company] (“Contractor”). City and Contractor are sometimes referred to herein as the “Parties”, and individually as a “Party”.

#### RECITALS

- A. City issued Request for Proposals No. \_\_\_\_\_ on \_\_\_\_\_, seeking proposals for an independent contractor to provide traffic signal maintenance services.
- B. Contractor submitted a proposal dated \_\_\_\_\_ in response to the RFP.
- C. City desires to utilize the services of Contractor as an independent contractor to provide traffic signal maintenance services.
- D. Contractor represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.
- E. City desires to retain Contractor and Contractor desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

#### 1. **Contractor’s Services.**

A. Scope of Services. Contractor shall perform the services described in the Scope of Services (“Services”), attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Contractor Representative shall be [Name], [Title] (the “Contractor Representative”). The Contractor Representative shall directly manage Contractor’s Services under this

Agreement. Contractor shall not change the Contractor Representative without City's prior written consent.

C. Time for Performance. Contractor shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

D. Standard of Performance. Contractor shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Contractor has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

F. Compliance with Laws. Contractor shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

G. Permits and Licenses. Contractor shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

H. Prevailing Wages. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works", Contractor shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit C** hereto.

**2. Term of Agreement.** The term of this Agreement shall be from the Effective Date through [Month] [Day], [Year], unless sooner terminated as provided in Section 12 of this Agreement or extended.

**3. Compensation.**

A. Compensation. As full compensation for Contractor's Services provided under this Agreement, City shall pay Contractor a sum not to exceed [Written Amount] Dollars (\$[Numerical Amount]) (the "Maximum Compensation"), based on the hourly rates set forth in the Approved Fee Schedule attached hereto as **Exhibit B**.

B. Expenses. The amount set forth in paragraph 3.A. above shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement.

C. Additional Services. City shall not allow any claims for additional Services performed by Contractor, unless the City Council or the City Representative, if

applicable, and the Contractor Representative authorize the additional Services in writing prior to Contractor's performance of the additional Services or incurrence of additional expenses. Any additional Services or expenses authorized by the City Council or City Representative shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. City shall make payment for additional Services and expenses in accordance with Section 4 of this Agreement.

#### **4. Method of Payment.**

A. Invoices. Contractor shall submit to City an invoice, on a monthly basis, for the Services performed pursuant to this Agreement. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Contractor in writing within ten (10) business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Contractor.

C. Audit of Records. Contractor shall make all records, invoices, time cards, cost control sheets and other records maintained by Contractor in connection with this Agreement available during Contractor's regular working hours to City for review and audit by City.

**5. Independent Contractor.** Contractor is, and shall at all times remain as to City, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

#### **6. Information and Documents.**

A. Contractor covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Contractor without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Contractor, its officers, employees, agents, or subcontractors shall not, without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Contractor gives City notice of such court order or subpoena.

B. Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Contractor as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Contractor's permission. Contractor may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Contractor.

D. Contractor's covenants under this Section 6 shall survive the expiration or termination of this Agreement.

**7. Conflicts of Interest.** Contractor and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Contractor's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Contractor may perform similar Services for other clients, but Contractor and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Contractor shall incorporate a clause substantially similar to this Section 7 into any subcontract that Contractor executes in connection with the performance of this Agreement.

**8. Indemnification.**

A. Indemnities for Third Party Claims.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and

those City agents serving as independent contractors in the role of City officials (collectively “Indemnitees”), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively “Liabilities”), in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees’ active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees’ choice, and shall pay all costs and expenses, including all attorneys’ fees and experts’ costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the Workers’ Compensation law regarding Contractor and Contractor’s employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable Workers’ Compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor’s failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A. 2).

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section 8 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor’s subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor’s subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees’ active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the Parties.

B. Workers’ Compensation Acts not Limiting. Contractor’s indemnifications and obligations under this Section 8, or any other provision of this Agreement, shall not

be limited by the provisions of any Workers' Compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section 8 shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section 8 shall survive the expiration or termination of this Agreement.

## **9. Insurance.**

A. Minimum Scope and Limits of Insurance. Contractor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Five Million Dollars (\$5,000,000) per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of Two Million Dollars (\$2,000,000) per accident for bodily injury and property damage. If Contractor does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Contractor shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A. 1) of this Section 9.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If Contractor has no employees while performing Services under this Agreement, a Workers' Compensation policy is not required, but Contractor shall execute a declaration that it has no employees.

4) Professional Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section 9 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance



Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under this Section 9.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Section 9 shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

E. Contractor's Waiver of Subrogation. The insurance policies required under this Section 9 shall not prohibit Contractor and Contractor's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Section 9 during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail thirty (30) days' prior written notice to City. If any insurance policy required under this Section 9 is canceled or reduced in coverage or limits, Contractor shall, within two (2) business days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Contractor does not maintain the policies of insurance required under this Section 9 in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Section 9, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Contractor shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section 9. The endorsements are subject to City's approval. Contractor may provide complete, certified copies of all required insurance policies to

City. Contractor shall maintain current endorsements on file with City's Risk Manager. Contractor shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Contractor shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duty to indemnify City under Section 8 of this Agreement.

K. Subcontractor Insurance Requirements. Contractor shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section 9.

## **10. Mutual Cooperation.**

A. City's Cooperation. City shall provide Contractor with all pertinent Data, documents and other requested information as is reasonably available for Contractor's proper performance of the Services required under this Agreement.

B. Contractor's Cooperation. In the event any claim or action is brought against City relating to Contractor's performance of Services rendered under this Agreement, Contractor shall render any reasonable assistance that City requires.

**11. Records and Inspections.** Contractor shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, work product, and other pertinent information related to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

## **12. Termination of Agreement.**

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Contractor at least five (5) calendar days before the termination is to be effective. Contractor may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least sixty (60) calendar days before the termination is to be effective.

B. Obligations upon Termination. Contractor shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Contractor, City shall pay Contractor based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall

Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the Services required by this Agreement. Contractor shall have no other claim against City by reason of such termination, including any claim for compensation.

**13. Force Majeure.** Contractor shall not be liable for any failure to perform its obligations under this Agreement if Contractor presents acceptable evidence, in City’s sole judgment, that such failure was due to strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Contractor’s reasonable control and not due to any act by Contractor.

**14. Default.**

A. Contractor’s failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default.

B. If the City Manager or his delegate determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Contractor with written notice of the default. Contractor shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Contractor fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

**15. Notices.** Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Contractor’s and City’s regular business hours, or (c) three (3) business days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

If to City:  
Attn: \_\_\_\_\_  
City of South El Monte  
1415 Santa Anita Avenue  
South El Monte, California 91733  
Telephone: \_\_\_\_\_  
Email:

If to Contractor:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a courtesy copy to:

Quinn M. Barrow, City Attorney

Richards, Watson & Gershon  
355 South Grand Avenue, 40th Floor  
Los Angeles, CA 90071  
Telephone: (213) 626-8484  
Email: qbarrow@rwglaw.com

**16. Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Contractor will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

**17. Prohibition of Assignment and Delegation.** Contractor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Contractor from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section 17 shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section 17, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

**18. No Third Party Beneficiaries Intended.** This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

**19. Waiver.** No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

**20. Final Payment Acceptance Constitutes Release.** The acceptance by Contractor of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Contractor for anything done, furnished or relating to Contractor's work or services. Acceptance of payment

shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Contractor, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Contractor, its employees, subcontractors and agents.

**21. Corrections.** In addition to the above indemnification obligations, Contractor shall correct, at its expense, all errors in the work which may be disclosed during City's review of Contractor's report or plans. Should Contractor fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Contractor. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Contractor under this Agreement up to the amount of the cost of correction.

**22. Non-Appropriation of Funds.** Payments to be made to Contractor by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Contractor's services beyond the current fiscal year, this Agreement shall cover payment for Contractor's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

**23. Exhibits. Exhibits A, B, and C** constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Contractor's proposal, the provisions of this Agreement shall control.

**24. Entire Agreement and Modification of Agreement.** This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

**25. Headings.** The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

**26. Word Usage.** Unless the context clearly requires otherwise, (a) the words “shall,” “will” and “agrees” are mandatory and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” or “including” are not limiting.

**27. Time of the Essence.** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

**28. Business Days.** “Business days” means days South El Monte City Hall is open for business.

**29. Governing Law and Choice of Forum.** This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior or federal court with geographic jurisdiction over the City of South El Monte.

**30. Attorneys’ Fees.** In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be awarded actual attorneys’ fees together with any costs and expenses in addition to all other relief to which that Party may be entitled.

**31. Severability.** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

**32. Counterparts.** This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

**33. Corporate Authority.** The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on behalf of the Parties and that by their execution, the Parties are formally bound to the provision of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:  
  
City of South El Monte,  
a California municipal corporation

Contractor:  
  
[Contractor's Legal Name],  
a [Legal Form of Entity]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Rose Juarez  
Title: City Clerk

APPROVED AS TO FORM:  
Richards, Watson & Gershon

By: \_\_\_\_\_  
Name: Quinn M. Barrow  
Title: City Attorney

**EXHIBIT A**  
**SCOPE OF SERVICES**



**EXHIBIT B**  
**APPROVED FEE SCHEDULE**

## EXHIBIT C

### TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. Therefore, as to those Services that are “public works”, Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor cease to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor’s Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep

accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Contract pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one (1) week shall be permitted upon public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code,

and I will comply with such provisions before commencing the performance of the work of this contract.”

12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor’s compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor’s compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor’s expense with counsel reasonably acceptable to City) City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys’ fees, and other related costs and expenses. All duties of Contractor under this Section shall survive the termination of the Agreement.

**ATTACHMENT D**

**FLAT RATES SHEET**

**TRAFFIC SIGNAL MAINTENANCE SERVICES COST PROPOSAL SCHEDULE "A"  
FLATRATE MAINTENANCE SCHEDULE**

**TRAFFIC SIGNAL PREVENTIVE MAINTENANCE – FLAT RATE:**

Preventive maintenance at a "Flat Rate" amount per Intersection for those signalized intersections listed in this solicitation regardless of facilities:  
\$\_\_\_\_\_.

Note: There are currently 21 signalized intersections maintained by the City. Each intersection will be PM every other month, 6 times per year.

**FLASHING BEACON PREVENTIVE MAINTENANCE - FLAT RATE:**

Preventive maintenance at a "Flat Rate" amount per intersection for those flashing beacon assemblies listed as listed in this Solicitation regardless of facilities:  
\$\_\_\_\_\_.

Note: There are currently 4 flashing beacon assemblies maintained by the City. Each location will be PM every other month, 6 times per year.

**USA -DIG ALERT SERVICES - FLAT RATE:**

Underground Service Alert (USA) "Dig Alert" services at a "Flat Rate" amount per intersection per occurrence: \$\_\_\_\_\_.

**ATTACHMENT E**

**CITY INTERSECTION AND FLASHING BEACON LIST**

**LIST OF INTERSECTIONS**

1. Garvey Avenue & Chico Avenue
2. Garvey Avenue & Potrero Avenue
3. Garvey Avenue & Lee Avenue
4. Rush Street & Chico Avenue
5. Rush Street & Potrero
6. Rush Street & Merced Avenue
7. Rush Street & Central Avenue
8. Rush Street & Santa Anita Avenue
9. Rush Street & Tyler Avenue
10. Rush Street & Peck Road
11. Durfee Avenue & Peck Road (AKA Rush/Durfee & Peck/Durfee)
12. Durfee Avenue & Thienes Avenue (AKA Peck/Thienes)
13. Durfee Avenue & Michael Hunt Drive (AKA Peck/Hunt)
14. Tyler Avenue & Klingerman Street
15. Tyler Avenue & Santa Anita Avenue
16. Santa Anita Avenue & Central Avenue
17. Santa Anita Avenue & Michael Hunt Drive (AKA Santa Anita/Vacco)
18. Santa Anita Avenue & Klingerman Street
19. Michael Hunt Drive & Lidcombe Avenue (Pedestrian Signal)
20. Central Avenue & Lerma Avenue (Pedestrian Signal)