



AGENDA
REGULAR MEETING OF THE MAYWOOD CITY COUNCIL AND THE
SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY
REDEVELOPMENT AGENCY

WEDNESDAY, AUGUST 11, 2021 AT 7:00 PM

Maywood City Council Chambers
4319 E. Slauson Avenue, Maywood, CA 90270
www.cityofmaywood.com

I. CALL TO ORDER/ROLL CALL

CALL TO ORDER
ROLL CALL

II. CITY OFFICIALS

MAYOR
Ricardo Lara

CITY CLERK
Flor Aguiluz

MAYOR PRO TEM
Heber Marquez

CITY TREASURER
Mary Mariscal

COUNCIL MEMBERS
Eduardo De La Riva
Frank Garcia
Jessica Torres

CITY MANAGER
Jennifer E. Vasquez

CITY ATTORNEY
Roxanne Diaz

III. COVID-19 MEETING PROCEDURES

PUBLIC ADVISORY: THE CITY COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting will be conducted telephonically through Zoom and broadcast live on the City's Facebook page. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chambers will not be open for the meeting. Council Members will be participating telephonically and will not be physically present in the Council Chambers.

If you would like to speak on an agenda item, you can access the meeting remotely via zoom:

Join by phone 1-669-900-6833 Enter Meeting 846 1771 8480 Passcode: 476870
OR

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84617718480?pwd=Y2pPb0JFVGxob3FYNWIPeWRjT09BUT09>
Passcode: 476870

If you want to comment during the public comment portion of the agenda, Press *9 on your phone or raise your hand in the zoom controls and we will select you from the meeting cue. NOTE: Your phone number will appear on the screen unless you first dial *67 before dialing the numbers as shown above.

The City wants you to know that you can also submit your comments by email to shirley.quinones@cityofmaywood.org. To give adequate time to print out your comments for consideration at the meeting, please submit your written comments prior to 4:30 p.m.; or if you are unable to email, please call the City Clerk's Office at (323) 562-5714 by 4:30 p.m.

If you wish to have your comments read to the Council Members during the appropriate Public Comment period, please indicate in the Subject Line "FOR PUBLIC COMMENT" and list the item number you wish to comment on. Comments that you want read to the Council will be subject to the three minute time limitation (approximately 350 words). Written comments that are only to be provided to Council and not read at the meeting will be distributed to the Council prior to the meeting.

Pursuant to the Executive Order, and in compliance with the Americans with Disabilities Act, if you need special assistance to participate in the Council meeting, please contact the City Clerk's Office, (323) 562-5714 within 48 hours of the meeting.

IV. MAYOR, COUNCILMEMBERS AND STAFF COMMENTS

V. PUBLIC PARTICIPATION (Agenda Items; Time allotted: 3 minutes)

Speakers wishing to address the City Council on an item on the agenda may use the instructions provided in section **III. COVID - 19 MEETING PROCEDURES** on page 1 of this agenda.

If you want to comment during the public comment portion of the agenda, Press *9 on your phone or raise your hand in the zoom controls and we will select you from the meeting cue. NOTE: Your phone number will appear on the screen unless you first dial *67 before dialing the numbers as shown above.

VI. PRESENTATIONS

VII. PUBLIC HEARING

VIII. CONSENT CALENDAR

All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council request specific items to be removed from the Consent Calendar for separate discussion or action.

1. MINUTES OF JULY 28, 2021 CITY COUNCIL MEETING
2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD AND SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY REDEVELOPMENT AGENCY APPROVING THE WARRANTS FOR PAYMENT
3. CONSIDERATION OF AWARD OF PROFESSIONAL SERVICES AGREEMENT TO NCE FOR THE PREPARATION OF PAVEMENT MANAGEMENT PROGRAM (PMP) 2021 UPDATE
4. CONSIDERATION OF AN ORDINANCE OF THE CITY OF MAYWOOD AMENDING CHAPTER 7 OF TITLE 3 OF THE MAYWOOD MUNICIPAL CODE TO ESTABLISH THE CITY MANAGER'S AUTHORITY TO APPROVE CERTAIN CHANGE ORDERS FOR PUBLIC PROJECTS

IX. DISCUSSION/ACTION ITEMS

X. CLOSED SESSION

Conference with Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Vasquez, City Manager; Unrepresented Employees: Finance Director; Director of Building and Planning; Public Works-Part Time.

XI. PUBLIC PARTICIPATION (Non-Agenda Items; Time allotted: 3 minutes)

Speakers wishing to address the City Council on non- agenda item you may use the following:

Speakers wishing to address the City Council on a non- agenda item you may use the instructions provided in section **III. COVID - 19 MEETING PROCEDURES** on page 1 of this agenda.

If you want to comment during the public comment portion of the agenda, Press *9 on your phone or raise your hand in the zoom controls and we will select you from the meeting cue. NOTE: Your phone number will appear on the screen unless you first dial

*67 before dialing the numbers as shown above.

- XII. ADJOURNMENT** - The next Regular Meeting of the Maywood City Council is August 25, 2021 at 7:00 p.m.

PUBLIC ACCESS TO MEETING AGENDA AND AGENDA PACKETS

I, _____, Flor Aguiluz, City Clerk or Shirley Quinones, Deputy City Clerk, hereby certify that this agenda was duly posted by law at 4319 E. Slauson Avenue, Maywood, CA 90270 and the City Website. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection at the Maywood City Hall, 4319 E. Slauson Avenue, Maywood CA 90270. If you challenge in court any discussion or action taken concerning an item on this Agenda, you may be limited to rising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting. In compliance with the ADA, if you need special assistance for the meeting, call (323) 562-5723 within 72 hours prior to the meeting so the City can make reasonable arrangements to ensure accessibility.





AGENDA 1
ITEM NO. _____

MINUTES
REGULAR MEETING OF THE MAYWOOD CITY COUNCIL AND THE
SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY
REDEVELOPMENT AGENCY

WEDNESDAY, JULY 28, 2021 AT 7:00 PM

I. CALL TO ORDER/ROLL CALL

Mayor called to order approximately at 7:04 p.m.

II. CITY OFFICIALS

MAYOR

Ricardo Lara (present)

CITY CLERK

Flor Aguiluz (teleconference)

MAYOR PRO TEM

Heber Marquez (present)

CITY TREASURER

Mary Mariscal (teleconference)

COUNCIL MEMBERS

Eduardo De La Riva (present)

Frank Garcia (teleconference)

Jessica Torres (teleconference)

CITY MANAGER

Jennifer E. Vasquez (present)

CITY ATTORNEY

Roxanne Diaz (teleconference)

STAFF PRESENT:

Hrant Manuelian, Finance Director (teleconference)

Steve Fowler, Director of Building and Planning (present)

Shirley Quinones, Deputy City Clerk (present)

III. COVID-19 MEETING PROCEDURES

PUBLIC ADVISORY: THE CITY COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC PURSUANT TO GOVERNOR GAVIN NEWESOM'S EXECUTIVE ORDER N-29-20 THIS MEETING WAS HELD AS A TELECONFERENCE MEETING.

OBSERVERS WERE ABLE TO VIEW THE MEETING LIVESTREAMED VIA THE CITY'S FACEBOOK AT:

<https://www.facebook.com/cityofmaywood> OR BY ZOOM AT:

Teleconference 1-669-900-6833 Meeting ID: 884 9446 1256 Passcode: 602314

or

<https://us02web.zoom.us/j/88494461256?pwd=dUV5YXVJd202ZW1rb1RCeVFQRkNMZz09>

Passcode: 602314

Comments may have been submitted via e-mail to shirley.quinones@cityofmaywood.org by 4:30 p.m. prior to meeting and by teleconference any time prior to closure of the public comment portion of the item(s) under consideration.

IV. MAYOR, COUNCILMEMBERS AND STAFF COMMENTS

Mayor, Council Members and City Manager provided community updates.

V. PUBLIC PARTICIPATION (Agenda Items; Time allotted: 3 minutes)

The following spoke on Agenda Items:

1. Orlando (submitted by teleconference)

VI. PRESENTATIONS

Recognition of Dodgers RBI Coaches from MaCES

- Alex Arzaluz
- Alex Jasso
- Mark Zavala
- Jose Aguirre
- Andres Angulo
- Arturo Figueroa
- Nathan Figueroa

Presentation given by Mayor Lara, recognizing the Dodgers RBI Youth Volunteers during the 2021 summer season.

SHERIFF'S UPDATE

Sergeant Saucedo presented crime trends in the City of Maywood.

PRESENTATION BY SPEAKER ANTHONY RENDON REGARDING THE APPROPRIATION OF STATE GRANT FUNDS TO IMPROVE COMMUNITY FACILITIES, PARKS OR ACQUISITION OF LAND

Speaker Anthony Rendon acknowledged a recent \$800,000 appropriation of State Grant Funds; funds are to be used to improve community facilities, parks or for land acquisitions.

VII. PUBLIC HEARING

None

VIII. CONSENT CALENDAR

1. MINUTES OF JULY 14, 2021 CITY COUNCIL MEETING

Motion to approve the minutes of the July 14, 2021 City Council Meeting by De La Riva. Second by Mayor Pro Tem Marquez. AYES: De La Riva, Garcia, Torres, Marquez, Lara. PASSES

2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD AND SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY REDEVELOPMENT AGENCY APPROVING THE WARRANTS FOR PAYMENT

Motion to adopt Resolution No. 6191 of the City of Maywood and Successor Agency to the Maywood Community Redevelopment Agency approving the Warrants for Payment by De La Riva. Second by Mayor Pro Tem Marquez. AYES: De La Riva, Garcia, Torres, Marquez, Lara. PASSES

3. CITY OF MAYWOOD BUDGET POLICY, PURCHASING POLICY, AND LEASE POLICY

Motion to adopt the Purchasing Policy, Budget Policy and Lease Policy by De La Riva. Second by Mayor Pro Tem Marquez. AYES: De La Riva, Garcia, Torres, Marquez, Lara. PASSES

4. CONSIDERATION OF APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH HdL COMPANIES FOR MANAGING COMPLIANCE AND ADMINISTERING BUSINESS LICENSE TAXES.

Motion to approve the Professional Services Agreement with HdL Companies for managing compliance and administering business license taxes by De la Riva. Second by Mayor Pro Tem Marquez. AYES: De La Riva, Garcia, Torres, Marquez, Lara. PASSES

5. AN ORDINANCE OF THE CITY OF MAYWOOD AMENDING CHAPTER 2 OF TITLE 2 AND CHAPTER 11 AND CHAPTER 13 OF TITLE 6 TO DELETE THE REFERENCES TO SEWER SUPERINTENDENT AND REPLACE WITH THE POSITION OF CITY INSPECTOR AND AMENDING THE MAYWOOD MUNICIPAL CODE

Motion to adopt Ordinance 21-01 of the City of Maywood amending Chapter 2 of Title 2 and Chapter 11 and Chapter 13 of Title 6 to delete the references to Sewer Superintendent and replace the position of City Inspector and amending the Maywood Municipal Code by De La Riva. Second by Mayor Pro Tem Marquez. AYES: De La Riva, Garcia, Torres, Marquez, Lara. PASSES

IX. DISCUSSION/ACTION ITEMS

6. CONSIDERATION OF APPOINTING A DELEGATE AND UP TO TWO ALTERNATES
FOR THE LEAGUE OF CALIFORNIA CITIES' ANNUAL CONFERENCE AND EXPO

Motion to appoint Mayor Pro Tem Marquez as the delegate and Council Members De La Riva and Torres as alternates to the League of California Cities' Annual Conference and Expo by De La Riva. Second by Mayor Lara. AYES: De La Riva, Garcia, Torres, Marquez, Lara. PASSES

X. CLOSED SESSION

None

XI. PUBLIC PARTICIPATION (Non-Agenda Items; Time allotted: 3 minutes)

The following spoke on Non-Agenda items:

1. Maria Villatoro (submitted by e-mail)
2. Orlando Ortiz (submitted by teleconference)
3. David Perez (submitted by teleconference)
4. Gabriela Aguirre (submitted by teleconference)

XII. ADJOURNMENT

Meeting adjourned at approximately 8:11 p.m. to the next meeting of the Maywood City Council, August 11, 2021 at 7:00 p.m.

Ricardo Lara, Mayor

ATTEST:

Flor Aguiluz, City Clerk

RESOLUTION NO. 6192

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MAYWOOD AND SUCCESSOR AGENCY TO THE MAYWOOD
COMMUNITY REDEVELOPMENT AGENCY APPROVING THE
WARRANTS FOR PAYMENT**

WHEREAS, the following listed demands have been reviewed by the Director of Finance, and

WHEREAS, the Director of Finance has certified to the accuracy and
availability of funds for payment thereof, and

WHEREAS, the register of audited demands is hereby submitted to the City Council of the City of Maywood and
Successor Agency to the Maywood Community Redevelopment Agency for approval.

NOW, THEREFORE, BE IT RESOLVED, that the listed Warrants and Wire Transfers/Automated Clearing House (ACH)
Transactions for \$356,927.48 are hereby ratified:

- Exhibit A – Summary of Warrants and Wire Transfers/ACH Transactions
- Exhibit B – Detail of Warrants

PASSED, APPROVED AND ADOPTED THIS 11th day of August, 2021.

Ricardo Lara, Mayor

ATTEST:

APPROVED AS TO FORM:

Flor Aguiluz, City Clerk

Roxanne Diaz, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF MAYWOOD)

I, Flor Aguiluz, City Clerk of the City Council of the City of Maywood, do hereby certify that foregoing Resolution No. 6192 was duly passed and adopted by the City Council of the City of Maywood, at a regular meeting of the City Council held on the 11th day of August, 2021 by the following roll call vote, to with:

AYES:

NAYES:

ABSENT:

ABSTAINED:

Flor Aguiluz, City Clerk

City of Maywood
Summary Warrants for Payment and Wire Transfers/ACH Transactions
Council Meeting Date
Wednesday, August 11, 2021

Accounts Payable

Amount

Accounts Payable prepaid warrants for payment: Checks No. 088726 - 088747	\$ 28,052.06
Accounts Payable regular warrants for payment: Checks No. 088748 - 088774	\$ 83,703.61
Sub-total	\$ 111,755.67

Wire Transfers/ACH Transactions

07/22/21 Payroll Pay Period - 7/4/2021 - 7/17/2021	\$ 45,092.55
07/22/21 CalPERS Employer Contribution - 7/4/2021 - 7/17/2021	\$ 6,964.55
07/22/21 2008 Lease Revenue Bond - Interest & Principal	\$ 165,649.74
07/22/21 State Compensation Insurance Fund Policy Charge - Policy Adjustment	\$ 2,720.18
07/23/21 ADP Payroll Fees	\$ 375.64
07/23/21 California Joint Powers Insurance Authority (CJPIA) repayment plan agreement - July 2021	\$ 12,000.00
08/02/21 California Joint Powers Insurance Authority (CJPIA) repayment plan agreement - August 2021	\$ 12,000.00
08/02/21 US Bank - Merchant Fees	\$ 369.15
Sub-total	\$ 245,171.81

Total Demands	\$ 356,927.48
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City of Maywood
Detail Warrants for Payment
Warrants No. 088726 to 088744

Check No.	Prepays	Date	Vendor Name	Check Amt	Transaction Description
088726	P	7/30/2021	Diana Cho & Associates	*1,827.50	CDBG Consulting May 2021
088727	P	8/3/2021	Angel Villegas	1,203.32	Retiree Medical Reimbursement August 2021 Retiree Medical Reimbursement July 2021 Retro
088728	P	8/3/2021	Brent Talmo	617.17	Retiree Medical Reimbursement August 2021
088729	P	8/3/2021	Bruce Leflar	1,196.68	Retiree Medical Reimbursement August 2021
088730	P	8/3/2021	Christine M. Locher	238.25	Retiree Medical Reimbursement August 2021
088731	P	8/3/2021	County of Los Angeles Department of Animal Control	*4043.97	Animal Control Services June 2021
088732	P	8/3/2021	Edward Ahrens	1,196.68	Retiree Medical Reimbursement August 2021
088733	P	8/3/2021	Mapcon Technologies, Inc.	83.00	Mapcon Building and Planning Software August 2021
088734	P	8/3/2021	Maywood Car Wash	27.00	Car Wash July 2021
088735	P	8/3/2021	Tri-City Mutual Water Company	3,093.30	Various Locations 07-01-2021 to 07-31-2021
088736	P	8/3/2021	Paul Pine	1,598.58	Retiree Medical Reimbursement August 2021
088737	P	8/3/2021	Preferred Benefit Insurance Administrators, Inc.	2,478.60	Dental & Vision Insurance July 2021
088738	P	8/3/2021	Robert Leach	1,005.00	Retiree Medical Reimbursement August 2021
088739	P	8/3/2021	Ronald Lindsey	1,274.32	Retiree Medical Reimbursement August 2021
088740	P	8/3/2021	Scott C. Anderson	1,196.68	Retiree Medical Reimbursement August 2021
088741	P	8/3/2021	Southern California Edison	6,971.31	Various Locations 06-01-2021 - 06-30-2021
088742	P	8/3/2021	Sparkletts Drinking Water Corp	114.18	City Hall Office Water
088743	P	8/3/2021	Sprint	590.58	Cell Phone Service: 06/24/2021 to 07/23/2021
088744	P	8/3/2021	Quadient Finance, USA, Inc.	46.77	Postage Machine
088745	P	8/3/2021	U.S. Bank Corporate Payment System	4,560.50	Credit Card Expense 06/25/21-07/15/21
088746	P	8/3/2021	Vernon, City of	115.94	Slauson & Downey 06-08-2021 to 07-08-2021
088747	P	8/3/2021	Xerox Financial Services	444.20	Lease Payment 07-15-2021 - 08-14-2021
088748		8/3/2021	Abila	625.00	Microix Web Pack Perpetual License
088749		8/3/2021	Amazon Capital Services	1,629.06	Office Supplies
088750		8/3/2021	California City Management Foundation	400.00	CCMF Membership FY July 2021-June 2021

City of Maywood
Detail Warrants for Payment
Warrants No. 088726 to 088744

Check No.	Prepays	Date	Vendor Name	Check Amt	Transaction Description
088751		8/3/2021	Occupational Health Centers of CA	98.50	Pre-Placements Physicals
088752		8/3/2021	Crosstown Electrical & Data, Inc.	2,862.75	Preventive Maintenance Street Light Inspections July 2021
088753		8/3/2021	Donco & Sons, Inc.	1,650.00	Troubleshoot and Repair Message Center Sign/Marquee
088754		8/3/2021	Expert Building Maintenance LLC	7,950.00	City Hall/Police Station/Parks July 2021 Additional Janitorial Services July 2021
088755		8/3/2021	Flor Aguiluz	300.00	August 2021 City Clerk Stipend
088756		8/3/2021	Graffiti Protective Coatings	4,120.00	July 2021 Bus Shelter Maintenance
088757		8/3/2021	Infinity Technologies	3,680.00	Monthly IT Fee for Services July 2021
088758		8/3/2021	JCL Traffic Services	457.58	Pexco 36" Clover Leaf Yellow Channelizer
088759		8/3/2021	KBJ Auto Detail	150.00	City Vehicle Car Wash Weekending 07/12/2021
088760		8/3/2021	L.B. Johnson Hardware Co.	451.85	Public Work Supplies
088761		8/3/2021	LGP Equipment Rentals	104.34	Equipment Rental Gas Cut Off Saw
088762		8/3/2021	Los Angeles County Fire Department	1,292.00	LACo/CUPA# AR0013523 Hazardous Waste/Material Program
088763		8/3/2021	Mary Mariscal	50.00	August 2021 Treasurer Stipend
088764		8/3/2021	Modern Glass & Mirror Works	225.00	YMCA Baldwin Park USD Door Glass Replacement
088765		8/3/2021	National Plant Services, Inc.	2,800.00	Clean Hot Spots July 1, 2021 Heliotrope & Randolph
088766		8/3/2021	North Star Landcare	9,831.25	Landscape Services July 2021
088767		8/3/2021	Office Team	2,288.00	Bldg/Planning Temp
088768		8/3/2021	One Step GPS	1,339.20	Yearly GPS Service Subscription Fleet Vehicles
088769		8/3/2021	Phoenix Group Information Systems	3,071.30	June 2021 Citation Processing Collection Agency Services June 2021 Parking Citation Processing June 2021 Permit Processing Fee
088770		8/3/2021	QStar Technology, LLC	7,659.53	Flash Cam 880 SX System
088771		8/3/2021	SPOILED CHECK	0.00	
088772		8/3/2021	Transtech Engineers, Inc	30,385.50	City Engineering Services
088773		8/3/2021	VOID	0.00	VOID
088774		8/3/2021	V & V Manufacturing	282.75	City of Maywood Code Enforcement Badges

City of Maywood
Detail Warrants for Payment
Warrants No. 088726 to 088744

Check No.	Prepays	Date	Vendor Name	Check Amt	Transaction Description
TOTAL:				<u>\$111,755.67</u>	

***Check # 088726 and 088731 are re-issues and
amounts have been approved on prior warrants***

AGENDA REPORT

CITY OF MAYWOOD



AGENDA ITEM NO. 3.

DATE: August 11, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER VASQUEZ, CITY MANAGER

BY: OKAN DEMIRCI, CITY ENGINEER

SUBJECT: CONSIDERATION OF AWARD OF PROFESSIONAL SERVICES AGREEMENT TO NCE FOR THE PREPARATION OF PAVEMENT MANAGEMENT PROGRAM (PMP) 2021 UPDATE

RECOMMENDATION:

It is recommended that the City Council award a professional services agreement to NCE for the Preparation of Pavement Management Program (PMP) 2021 Update for a total amount of \$23,400.00 and authorize the City Manager to execute the agreement with NCE.

BACKGROUND:

The Pavement Management Program (PMP) is used as a pavement maintenance and rehabilitation planning framework. The PMP document provides a formal systematic approach to assessing, monitoring, and managing the condition of networks in the most cost-effective manner.

The PMP document presents findings and recommendations from a pavement condition survey for the entire City roadway network, including pavement condition summaries, rehabilitation and maintenance/preservation activities, and project budgets for those activities.

DISCUSSION:

In order to receive Federal funding for street rehabilitation projects, it is mandated that every mile of eligible Federal-Aid highway within the City (major arterials) be managed with a Pavement Management Program (PMP). County grant funding (Proposition C) also requires that a PMP be implemented and updated every three years. The results of the study help determine the most appropriate locations and the optimum approach to pavement rehabilitation.

A basic PMP involves dividing the city's street network into segments of approximately one-block lengths. The segments are evaluated by counting the number of cracks, measuring the size and type of cracking and collecting other pavement surface information. The measurements are analyzed mathematically and each segment is given a condition rating number (between 0 and 100) that is used to rank the streets in the order of their conditions. Combined with data on traffic volumes and pavement thicknesses, the program processes the condition data and produces recommendations for which streets to repair, in what order, the optimum method of repair, and the estimated costs. The information is used to prioritize and schedule street rehabilitation through the long range Capital Improvement Program (CIP) and budget process. Local streets are also monitored and managed by the PMP.

On July 1, 2021, staff issued a Request for Proposals for the Preparation of that Pavement Management Program (PMP) 2021 Update with a submittal deadline of July 22, 2021.

On July 22, 2021, staff received proposals from two consulting firms: Bucknam Infrastructure Group, and NCE. Staff reviewed the proposals and determined that the proposal from NCE was the most comprehensive and demonstrated the best understanding of the information and recommendations to be included in the PMP update.

It is staff's recommendation to award a professional services agreement to NCE for the Preparation of Pavement Management Program (PMP) 2021 Update for a total amount of \$23,400.00 and authorize the City Manager to execute the agreement with NCE.

Work will begin in September 2021, and is expected to be completed within 4 months, at which time the final PMP report will be presented to the City Council for acceptance.

LEGAL REVIEW:

The City Attorney has reviewed this report.

FISCAL IMPACT:

There is no additional budget amendment needed for this item. This project has been budgeted for using Gas Tax funds for \$50,000.

ATTACHMENT(S)

1. Agreement with NCE

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is dated August 11, 2021 ("Effective Date") and is between the City of Maywood, a California municipal corporation ("City") and NCE ("Consultant"). City and Consultant are sometimes referred to herein as the "Parties", and individually as a "Party".

RECITALS

A. City desires to utilize the services of Consultant as an independent contractor to perform Professional Services for the Preparation of Pavement Management Program (PMP) 2021 Update.

B. Consultant 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.

C. City desires to retain Consultant and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

10. Consultant's Services.

Scope of Services. Consultant shall perform the services described in the Scope of Services (the "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.

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 Consultant Representative shall be Charlene Palmer (the "Consultant Representative"). The Consultant Representative shall directly manage Consultant's Services under this Agreement. Consultant shall not change the Consultant Representative without City's prior written consent.

Time for Performance. Consultant 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.

Standard of Performance. Consultant 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.

Personnel. Consultant 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 Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

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

Permits and Licenses. Consultant 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”, Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit C** hereto.

11. **Term of Agreement.** The term of this Agreement shall be from the Effective Date through August 11, 2022, unless sooner terminated as provided in Section 13 of this Agreement or extended.

12. **Compensation.**

Compensation. As full compensation for Scope of Services satisfactorily rendered, City agrees to compensate Consultant, and Consultant agrees to accept in full satisfaction for the services required by this Agreement, twenty three thousand four hundred dollars (\$23,400.00), as more particularly described in **Exhibit B** (“Compensation”). Said Compensation shall constitute reimbursement of Consultant’s fee for the services as well as the actual cost of any staff time, other direct or indirect costs or fees, including the work of employees, consultants and subcontractors, equipment, materials, and supplies necessary to provide the service (including all labor, materials, delivery, tax, assembly, and installation, as applicable). In no event shall the Consultant be paid more than \$23,400.00, which includes expenses and additional services (if any) during the term of this Agreement (“Maximum Compensation”).

Expenses. The City will not reimburse Consultant for any expenses, unless expenses are agreed upon in advance in writing by both parties and/or set forth in **Exhibit B**.

Unauthorized Services and Expenses. City will not pay for any services not specified in the Scope of Services, unless the City Council or the City Representative, if

applicable, and the Consultant Representative authorize such services in writing prior to Consultant's performance of those services or incurrence of additional expenses. Any additional services or expenses authorized by the City Council or the 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.

13. Method of Payment.

Invoices. Consultant 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 Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement or within such other reasonable time dependent on the City's warrant run procedures. 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 Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

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

14. Independent Contractor.

A. Consultant is an independent contractor and not an employee of the City. All work or other Services provided pursuant to this Agreement shall be performed by Consultant or by Consultant's employees or other personnel under Consultant's supervision, and Consultant and all of Consultant's personnel shall possess the qualifications, permits, and licenses required by State and local law to perform such Services, including, without limitation, a City of Maywood business license. Consultant will determine the means, methods, and details by which Consultant's personnel will perform the Services. Consultant shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the Services and compliance with the customary professional standards.

B. All of Consultant's employees and other personnel performing any of the Services under this Agreement on behalf of Consultant shall also not be employees of

City and shall at all times be under Consultant's exclusive direction and control. Consultant and Consultant's personnel shall not supervise any of City's employees; and City's employees shall not supervise Consultant's personnel. Consultant's personnel shall not wear or display any City uniform, badge, identification number, or other information identifying such individual as an employee of City; and Consultant's personnel shall not use any City e-mail address or City telephone number in the performance of any of the Services under this Agreement. Consultant shall acquire and maintain at its sole cost and expense such vehicles, equipment and supplies as Consultant's personnel require to perform any of the Services required by this Agreement. Consultant shall perform all Services off of City premises at locations of Consultant's choice, except as otherwise may from time to time be necessary in order for Consultant's personnel to receive projects from City, review plans on file at City, pick up or deliver any work product related to Consultant's performance of any Services under this Agreement, or as may be necessary to inspect or visit City locations and/or private property to perform such Services. City may make a computer available to Consultant from time to time for Consultant's personnel to obtain information about or to check on the status of projects pertaining to the Services under this Agreement.

C. Consultant shall be responsible for and pay all wages, salaries, benefits and other amounts due to Consultant's personnel in connection with their performance of any Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, other retirement or pension benefits, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance. Notwithstanding any other agency, State, or federal policy, rule, regulation, statute or ordinance to the contrary, Consultant and any of its officers, employees, agents, and subcontractors providing any of the Services under this Agreement shall not become entitled to, and hereby waive any claims to, any wages, salaries, compensation, benefit or any incident of employment by City, including but not limited to, eligibility to enroll in, or reinstate to membership in, the California Public Employees Retirement System ("PERS") as an employee of City, and entitlement to any contribution to be paid by City for employer contributions or employee contributions for PERS benefits.

D. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from, caused by, or relating to Consultant's personnel practices. or to the extent arising from, caused by or relating to the violation of any of the provisions of this Section. In addition to all other remedies available under law, City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section. This duty of indemnification is in addition to Consultant's duty

to defend, indemnify and hold harmless as set forth in any other provision of this Agreement.

15. PERS Compliance and Indemnification

A. General Requirements. The Parties acknowledge that City is a local agency member of PERS, and as such has certain pension reporting and contribution obligations to PERS on behalf of qualifying employees. Consultant agrees that, in providing its employees and any other personnel to City to perform any work or other Services under this Agreement, Consultant shall assure compliance with the Public Employees' Retirement Law, commencing at Government Code § 20000, the regulations of PERS, and the Public Employees' Pension Reform Act of 2013, as amended. Without limitation to the foregoing, Consultant shall assure compliance with regard to personnel who have active or inactive membership in PERS and to those who are retired annuitants and in performing this Agreement shall not assign or utilize any of its personnel in a manner that will cause City to be in violation of the applicable retirement laws and regulations.

B. **Indemnification**. Consultant shall defend (with legal counsel approved by City, whose approval shall not be unreasonably withheld), indemnify and hold harmless City, and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from (i) any and all liability, damages, claims, costs and expenses of any nature to the extent arising from, caused by, or relating to Consultant's violation of any provisions of this Section 6; or (ii) in the event that Consultant or any employee, agent or subcontractor of Consultant providing Services under this Agreement claims or is determined by a court of competent jurisdiction and/or by PERS to be eligible for enrollment in PERS as an employee of the City. This duty of indemnification is in addition to Consultant's duty to defend, indemnify and hold harmless as set forth in any other provision of this Agreement.

16. Information and Documents.

Consultant covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subconsultants 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 Consultant gives City notice of such court order or subpoena.

Consultant shall promptly notify City should Consultant, its officers, employees, agents or subconsultants 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 Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

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 Consultant 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 Consultant's permission. Consultant 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 Consultant.

Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

17. Conflicts of Interest. Consultant and its officers, employees, associates and subconsultants, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant'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, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subconsultants shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

18. Indemnification, Hold Harmless, and Duty to Defend.

Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless 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, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants,

attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

Other Indemnities.

i. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, 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 "Claims"), in law or 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 Consultant, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claim 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. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by the Indemnitees in connection therewith.

ii. Consultant shall pay all required taxes on amounts paid to Consultant 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. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph B.2).

iii. Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section 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. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Claims in law or 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 Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

Workers' Compensation Acts not Limiting. Consultant's obligations under this Section, or any other provision of this Agreement, shall 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, its officers, agents, employees and volunteers.

Insurance Requirements not Limiting. 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. The hold harmless and indemnification provisions in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, Claims, tax, assessment, penalty or interest asserted against City.

a. Survival of Terms. The indemnification in this Section shall survive the expiration or termination of this Agreement.

19. Insurance.

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

Commercial General Liability Insurance with a minimum limit of \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$1,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

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 \$1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under

this Agreement, Consultant shall provide insurance in the amount required by California law.

Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) ☐ If this box is checked, Professional Liability/Errors and Omissions Insurance with minimum limits of \$1,000,000.00 per claim and in aggregate.

Acceptability of Insurers. The insurance policies required under this Section 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 or such other rating as approved by the City Manager. Self insurance shall not be considered to comply with the insurance requirements under this Section.

Additional Insured. The general liability policy shall contain an endorsement naming City and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

Primary and Non-Contributing. The insurance policies required under this Section 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 elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

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

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

Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section 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 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced

in coverage or limits, Consultant shall, within two 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.

City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, 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 Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager or such other official designed by the City Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant 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. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 9 of this Agreement.

SubConsultant Insurance Requirements. Consultant shall require each of its subconsultants that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

20. Mutual Cooperation.

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

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

21. Records and Inspections. Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such

information required by City that relate 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. Consultant 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 years after receipt of final payment.

22. Termination of Agreement.

Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least ten calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

Obligations upon Termination. Consultant 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 Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

23. Force Majeure. Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, 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 Consultant's reasonable control and not due to any act by Consultant.

24. Default.

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

In addition to the right to terminate pursuant to Section 13, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default.

Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant 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.

25. 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 Consultant's and City's regular business hours, or (c) three 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 Manager
City of Maywood
4319 East Slauson Avenue
Maywood, California 90270

If to Consultant:
Att: Charlene Palmer, Principal
NCE
17050 Bushard Street, Suite 200
Fountain Valley, CA 92708

26. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Consultant shall not discriminate against any employee, subconsultant 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. Consultant will take affirmative action to ensure that subconsultants 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.

27. Prohibition of Assignment and Delegation. Consultant 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 Consultant 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 shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "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.

28. 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.

29. **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.

30. **Final Payment Acceptance Constitutes Release.** The acceptance by Consultant 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 Consultant for anything done, furnished or relating to Consultant'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 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 Consultant, its employees, subconsultants 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 Consultant, its employees, subconsultants and agents.

31. **Corrections.** In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant 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 Consultant. 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 Consultant under this Agreement up to the amount of the cost of correction.

32. **Non-Appropriation of Funds.** Payments to be made to Consultant 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 Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant'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.

33. **Exhibits.** Exhibits A and B 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 Consultant's proposal, the provisions of this Agreement shall control.

34. **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.

35. 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.

36. 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.

37. 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.

38. Business Days. “Business days” means days Maywood City Hall is open for business.

39. 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 court with geographic jurisdiction over the City of Maywood.

40. 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 entitled to recover all attorneys’ fees, experts’ fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

41. 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.

42. **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.

43. **Corporate Authority.** Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions 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 Maywood,
a California municipal corporation

Consultant:

NCE

By: _____
Ricardo Lara
Mayor of the City of Maywood

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Flor Aguiluz, City Clerk

APPROVED AS TO FORM:

By: _____
Roxanne Diaz, City Attorney

EXHIBIT A

SCOPE OF SERVICES

The following tasks describe in more detail the approach that the NCE team will pursue, and the Scope of Work that we propose to perform to meet the City's needs and objectives for this project. The Tasks are outlined below.

Task I - Meet (Virtually) with City Staff

NCE will meet with City staff to kick-off the project by reviewing the technical approach and discuss any administrative matters that may be necessary. At a minimum, items to be discussed will include:

- Scope of work and schedule
- Field work
 - Discussion on type of surveys the City desires, should it be walking surveys or semi-automated surveys
 - Scheduling and access requirements
 - Public safety concerns
 - Quality Control Plan (QCP) (per walking or semi-auto-mated method)
- Available files
 - Access to the City's StreetSaver® PMP database
 - Excel Spreadsheets – of current and new streets to be added
 - GIS shapefiles -if StreetSaver® shapefiles should need updating
 - Available maps and other relevant data
- Maintenance practices, history, and costs
- Analysis discussion of newly surveyed street conditions
- Other issues as appropriate

One additional meeting will be held at an appropriate milestone. Monthly written status reports will be sent to the City that discuss the work that has been completed and the work remaining.

Part of NCE's value to the City is the information that we can bring and share from other agencies, and their results based on tight budgetary constraints. We can also share the perspective of our work in the California Statewide Needs Assessment study, which included an assessment of all 539 cities and counties.

Deliverables:

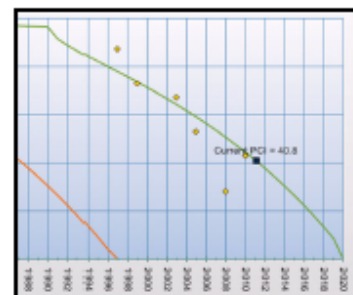
- Meeting agenda and technical memorandum summarizing kick-off meeting.
- Monthly Status reports

Task II: Update Maintenance and Rehabilitation Activities

Populating the PMP database with recent M&R historical data is extremely useful for determining future treatments and predicting performance of the various pavement sections. The chart is an example of the StreetSaver® software creating a custom performance curve from historical data.

The M&R activities, e.g., overlays, reconstructions and any surface seals that have occurred since 2017 will be entered into the PMP database. The M&R historical records will include the following information:

- Street Name
- Branch and section IDs
- Beginning and ending limits of work
- Type of treatment
- Date of treatment



Deliverables:

- M&R history report

Task III – Pavement Survey and Treatment Analysis

NCE will prepare to start the surveys of the City streets using the method of survey determined by the City during the kick-off meeting. For the purpose of this proposal, NCE will discuss the procedures of semi-automated surveys. NCE/märker will perform distress collection surveys on the 27.3 centerline miles of street segments as per ASTM D6433-18 protocols (sometimes known as PAVER distresses). The types of distresses collected include:

Asphalt Concrete Distresses

1. Alligator Cracking (Fatigue)
2. Bleeding/flushing
3. Block Cracking
4. Bumps & Sags
5. Corrugation
6. Depression
7. Edge Cracking
8. Joint Reflective Cracking
9. Lane/Shoulder Drop-off
10. Longitudinal & Transverse Cracking
11. Patch/Utility Cut Patch
12. Polished Aggregate
13. Potholes
14. Railroad Crossing
15. Rutting
16. Shoving
17. Slippage Cracking
18. Swell
19. Raveling
20. Weathering

PCC Distresses

1. Blowup/Buckling
2. Corner Break
3. Divided Slab
4. Durability ("D") Cracking
5. Faulting
6. Joint Seal Damage
7. Lane/Shoulder Drop-off
8. Linear Cracking
9. Patching, Large/Utility Cuts
10. Patching, Small
11. Polished Aggregate
12. Popouts
13. Pumping
14. Punchout
15. Railroad Crossing
16. Scaling, Map Cracking & Crazeing
17. Shrinkage Cracks
18. Spalling, Corner
19. Spalling, Joint



The evaluation of the pavement surface distress is based on three components:

- Type is defined as **'What kind of crack or defect is it?'** based on environmental distresses (i.e.: Block Cracking, Longitudinal/Transverse Cracking, Weathering) or load related distresses (i.e.: Alligator Cracking, Rutting).
- Severity is defined as **'How bad is the defect?'** in terms of the measurement or degree of wear associated with the condition.
- Extent refers to quantity or **'How much?'** of the pavement is affected by a particular distress.

We have seen considerable advancements in technology over the last 25 years. The assessment of pavement condition has seen a transformation from more labor-intensive manual efforts to high-speed automated surveys that combine the use of roadway sensors and digital imagery. Our team is well positioned to collect, measure, and map roadway data with a sophisticated automated approach using pavement laser scanners.

Our goal is to provide accurate, repeatable, and economical pavement condition assessments. Hence the option of Walking or Semi-Automated is a method that the City should have the ability to choose the method and be assured that whichever chosen will give the best results for the City.

Our mobile data collection equipment and team can collect the following (first three bullets are included in our scope and cost):

-  Pavement Surface Distress
-  Pavement Profiling (Roughness / Rutting)
-  Positioning Spatial GPS & Linear Referencing
-  Mobile Collection Roadway / Roadside Asset Inventories
-  Sign/Pavement Marking Reflectivity
-  Roadway Cross Slope / Grade and Curvature

Roadway Collection Vehicle Program Overview

During our roadway surveys, pavement profiling (ride quality, rutting), GPS, and surface distress data is collected continuously and seamlessly by our pavement technician team using marker's semi-automated data collection vehicle which makes available a wide range of survey technologies. Our pavement distress data collection process involves the use of customized, integrated keyboards, and laser scanning which are used to collect the type, severity, extent, start and stop points of the pavement surface distresses.



Street names, limits, lengths, widths, number of lanes and surface types will be field reviewed with functional classifications reviewed in the office. Should there be any questions or variations noted, the City will be contacted for clarification.

Pavement Inspectors for this project have been tested and certified through the Metropolitan Transportation Commission (MTC) "Inspector Certification/Testing" programs. This covers the ASTM D6433 and StreetSaver® distress types.

Quality Control Plan

The importance of accurate and reliable data cannot be overstated, as this leads directly to planning decisions (what roads to repair?) as well as funding decisions (how much money is really needed?). NCE's goal is to provide the highest quality work product for our clients. In order to meet this goal, a quality assurance/ quality control (QC/QA) component is incorporated into all our projects. For this project, Shahram Misaghi, PE, as the proposed QC Manager, will have the responsibility for incorporating the following QC/QA steps into our work:

-  Reviewing field activities, including spot checks on the field crews
-  Reviewing field procedures, making changes as needed
-  Comparing the field data collected with on-site conditions
-  Reviewing all data entry functions, including spot checks
-  Reviewing reports generated and analyses performed to ensure high quality deliverables

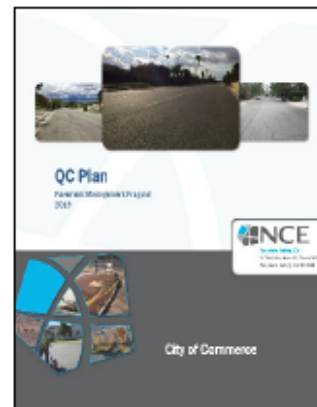
NCE's QC Plan provides for a minimum of 5% of all field data to be re-inspected by a different inspector. A comparison of the distresses (type, severity, and quantity) will be made and at least 95% of re-inspected sections must be in compliance.

Mr. Misaghi will work directly with the Project Manager, Ms. Senn, who will have overall responsibility for this project.

In addition to the checks required by software, NCE has developed a series of procedures to ensure the consistency and accuracy of data collected in the field. The **3 Step QC process for semi-automated surveys** is outlined as follows:

Field QA/QC Step 1: Correlation

The first step in this process is to have NCE/Marker drive a few roads and review some of the variety of pavement conditions that exist in the City of Diamond Bar. This is required to synchronize the team's view of the various distresses.



Field QA/QC Step 2: Calibration

The QC team will conduct an independent calibration of equipment used to perform pavement condition surveys on the City's pavement networks. Since automated distress data collection is different from walking protocols, this task is required to ensure that the pavement data collected is consistent with standard protocols. Up to 25 pavement sites will be selected to the calibration. They will include a range of:

-  Pavement Types (AC or PCC)
-  Functional Classifications
-  Pavement condition or age

Field QA/QC Step 3: Re-inspection "Checks"

A minimum of five percent of all sections will be re-inspected by other team members. Sections with a PCI difference between the two surveys are also flagged for re-inspection. At the time of re-inspection, the actual distresses will be re-inspected and verified, and any corrections made, if necessary. Distress types and severities must be the same, and re-measured quantities within $\pm 10\%$ of the original measured quantity. If corrections are required on more than 10% of the re-inspected sample units, then an additional 5% will be re-inspected. This will continue until more than 95% of the re-inspected sections meet the acceptability criteria.



The costs associated with additional re-inspections due to a failure to meet the acceptance criteria will be borne by NCE.

Please note that NCE's scope of work and condition surveys do not address issues including but not limited to traffic, safety and road hazards, geometric issues, road shoulders, sidewalks, curb and gutters, drainage issues or short-term maintenance that should be performed.

Data Entry

The condition survey data will be entered into the selected PMP database. This task will be performed at our office in order to provide quality control of all data entered into the program. The database will be reviewed for errors and any found will be corrected prior to performing calculations.

Deliverables:

-  Updated PMP database with pavement condition distresses
-  PCI report

Task IV: Budgetary Analysis and Reports

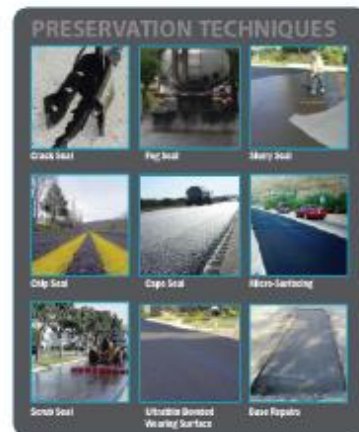
Maintenance and Rehabilitation Strategies

NCE will review M&R strategies with City staff that include the recommendation and selection of appropriate treatments such as cape seals or overlays, and the determination of treatment unit costs. This will also be an appropriate time to review the use

of new / sustainable treatments or materials, such as rubberized asphalt, rubberized chip or cape seas, microsurfacing, rejuvenators, cold-in-place recycling, full depth reclamation, warm mix asphalt, etc.

NCE's experience in pavement engineering and design, as well as local conditions, allows our staff to be able to provide the City with solutions that are innovative, sustainable, practical, and workable.

Development of the M&R decision tree is a critical step in any pavement management update as it has a direct and significant impact on the final work plan that is developed, as well as the budgeting consequences. NCE's experience in pavement engineering and design, as well as local conditions, allows our staff to be able to provide the City with solutions that are practical and workable. The M&R alternatives are defined, a treatment unit cost will be determined for each alternative. These alternatives and costs will then be entered into the PMPS database for budgetary analysis.



The unit costs will have a huge impact on the City's projections or needs assessments. Therefore, NCE will review any recent bid tabs, together with those from neighboring cities as appropriate. Also, unit prices will be fully loaded rates, and will include not just contractors' prices, but also design, inspection and testing costs.

Deliverables:

-  M&R Decision tree

Budgetary Analysis

NCE will perform a Budget Needs analysis using an analysis period to be determined by the City (can be as long as 20 years). This will identify M&R requirements for each road section and determines the total maintenance and rehabilitation requirements over the entire analysis period. This forms the basis for performing Budget Scenario evaluations, which optimize the street sections for repair under constrained budgets.

The Budget Needs analysis answers the questions: "If I have unlimited funding for street maintenance and repair, which streets should I fix?" "When should I fix them?" "What treatments should I apply?" "How much will it cost?"

The budget scenarios evaluation prioritizes sections for repair under constrained, realistic, budgetary assumptions.

This module answers the question: "If the City has limited funds for street maintenance and repair, which streets have the highest priority for repairs, when should the City perform the repairs, and how much will it cost?"

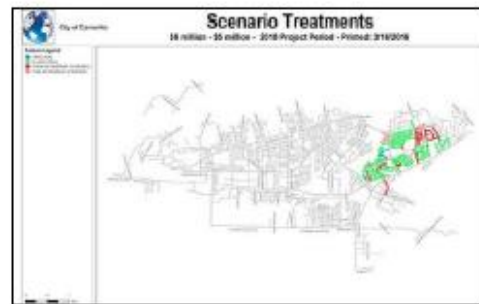
Multiple budget- or target-driven scenarios will be performed after discussion with City staff. Examples of typical scenarios include:

-  Impacts of existing funding levels.
-  Impacts to model drops in funding.
-  Using RMRA funds what will the resulting PCI be?

The results will be used to develop a multi-year rehabilitation program that includes the treatment and when it will be applied to streets. NCE will develop a multi-year workplan for the final selected scenario (see example developed for Camarillo).

NCE will prepare a draft report for the City to review. The report will contain, at a minimum:

- ❏ Executive Summary
- ❏ Introduction and methodology
- ❏ Discussion of software and setup parameters
- ❏ Inventory of City streets
- ❏ PCI listing
- ❏ Maintenance strategies and costs
- ❏ M&R History Report
- ❏ Results of budgetary analyses
- ❏ Multi-year work plan



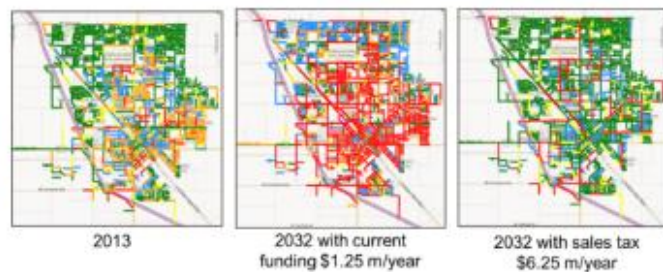
The draft report will be submitted to the City for review in electronic format.

Upon receipt of the City's comments on the draft report, NCE will make the appropriate revisions and corrections and will submit the Final Report to the City.

In addition, NCE can use the City's StreetSaver® software to prepare maps, as shown below:

- ❏ PCI range by street section
- ❏ Future PCI by street section
- ❏ Functional classification
- ❏ Maintenance treatment history
- ❏ Impacts of different budget scenarios
- ❏ Sections selected for treatment

Once linked, powerful maps can be generated within minutes, as shown in the example shown. In addition, shapefiles can be exported for other GIS functions within the City.



Deliverables:

- ❏ Final report
- ❏ One (1) electronic copy of
- ❏ Updated pavement management database linked to GIS

EXHIBIT B

COMPENSATION

**City of Maywood
Pavement Management Program (PMP) 2021 Update
Breakdown of Work Hours & Fee Estimate by Task**

Task Description	Project Manager	QC Manager/ Principal	Project Engineer	Technician	Technical Admin.	Total Cost
Task I: Meet with City Staff	4	2	8			\$2,020.00
Task II: Update Maintenance and Rehabilitation Activities	2		12			\$1,840.00
Task III: Pavement Survey and Treatment Analysis	10	4	20	72		\$11,600.00
Task IV: Budget Analysis and Reports	10	2	32		2	\$6,180.00
Task V: Presentation	4	0	8		2	\$1,760.00
	30	8	80	72	4	\$23,400.00

Assumptions

Task II - Assumes 4 years of M&R work updated to StreetSaver. A discussion of City's current treatments and possible other treatments.

Task III - Assumes walking surveys

Task III - Should Semi-Automated surveys be chosen the cost for technicians and vehicle would be \$6,300. Total cost for Task II would be \$10,753

Task III - Covers M&R Treatments discussion, review of unit cost and updating StreetSaver Decision Tree.

Task IV - Prepare a maximum of 3 budget scenarios, prepare Dradft Report and Final Report

Task V - Prepare presentation for City Council with guidance from staff. Present to Council.

Task V - 2, Four hour training classes will be given for City staff. No more than 4 individuals at each training.

EXHIBIT C

LABOR CODE REQUIREMENTS

C-1

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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 ceases 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 \$200.00 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. Pursuant to Labor Code Section 1771.4, Contractor and each subcontractor shall furnish such records to the Labor Commissioner, at least monthly, in the form specified by the Labor Commissioner.

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 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 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 \$25.00 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 hours in any one calendar day and 40 hours in any one 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 hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half 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.

AGENDA REPORT

CITY OF MAYWOOD



AGENDA ITEM NO. 4.

DATE: August 11, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER VASQUEZ, CITY MANAGER

BY: JENNIFER VASQUEZ, CITY MANAGER

SUBJECT: CONSIDERATION OF AN ORDINANCE OF THE CITY OF MAYWOOD AMENDING CHAPTER 7 OF TITLE 3 OF THE MAYWOOD MUNICIPAL CODE TO ESTABLISH THE CITY MANAGER'S AUTHORITY TO APPROVE CERTAIN CHANGE ORDERS FOR PUBLIC PROJECTS

RECOMMENDATION:

Staff recommends that City Council read Ordinance No. 21-02, "An Ordinance of the City of Maywood Amending Chapter 7 of Title 3 of the Maywood Municipal Code to Establish the City Manager's Authority to Approve Certain Change Orders for Public Projects" by title only, waive further reading, and introduce the ordinance.

BACKGROUND:

DISCUSSION:

The Maywood Municipal Code provides detailed contracting procedures. As the City's Chief Administrative Officer, the City Manager has authority to approve contract amendments for the purchase of materials, supplies and equipment and professional service contracts, as long as the amendment or change order is within 25% of the original contract amount approved by the City Council.

The City Engineer has recommended that an ordinance be adopted that provides similar authority to the City Manager as it relates to capital improvement program projects (i.e. public works projects). This will allow staff the flexibility to keep these public works projects on schedule when unanticipated issues may arise that necessitate a change order. This change order authorization is similar to that of other cities.

The proposed ordinance provides that the City Manager has authority to execute change orders not to exceed 25% of the original contract amount if the work under the change order is reasonably related to the scope of the original contract and the funding for the project has been budgeted. The City Manager will provide a report on a regular basis to the City Council that outlines the change orders that have been issued. Lastly, the City Council may amend the change order authorization by resolution.

LEGAL REVIEW:

The City Attorney has reviewed this report.

FISCAL IMPACT:

No additional budget appropriations needed.

ATTACHMENT(S)

ORDINANCE NO. 21-02

**AN ORDINANCE OF THE CITY OF MAYWOOD AMENDING
CHAPTER 7 OF TITLE 3 OF THE MAYWOOD MUNICIPAL CODE TO
ESTABLISH THE CITY MANAGER'S AUTHORITY TO APPROVE
CERTAIN CHANGE ORDERS FOR PUBLIC PROJECTS**

THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 7 of Title 3 of the Maywood Municipal Code is hereby amended by adding a new Section 3-7.09 to read as follows:

“3-7.09. Change orders

(a) The City Manager shall have the authority to execute change orders for any contract awarded pursuant to this Chapter in an amount not to exceed twenty-five (25%) of the amount of the original contract as long as the work under the change order is reasonably related to the scope of work authorized under the original contract and funding for the public project has been budgeted.

(b) On a regular basis, a report shall be submitted to the City Council outlining all change orders that have been issued to contracts governed by this Chapter during the reporting period.

(c) The limitations in contract authority related to change orders set forth in this section may be modified by resolution of the City Council.

Section 2. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 3. Effective Date of Ordinance. This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

Section 4. Certification and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED THIS 25th day of August, 2021.

Ricardo Lara, Mayor

ATTEST:

APPROVED AS TO FORM:

Flor Aguiluz, City Clerk

Roxanne Diaz, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF MAYWOOD)

I, Flor Aguiluz, City Clerk of the City Council of the City of Maywood, do hereby certify that the foregoing Ordinance No. 21-02 was duly passed and adopted by the City Council of the City of Maywood, at a regular meeting of the City Council held on the 25th day of August, 2021 by the following roll call vote, to wit:

AYES:

NAYES:

ABSENT:

ABSTAINED:

Flor Aguiluz, City Clerk