

CITY MANAGER'S/STAFF'S REPORT
REGULAR CITY COUNCIL MEETING DATE:

May 18, 2020

ITEM NO: 1.a.

SUBJECT: Consideration of an Agreement with the County of Fresno to provide emergency dispatch services for the City of Selma Fire Department

RECOMMENDATION: Approve agreement for dispatch services by the Fresno County EMS dispatch center.

DISCUSSION: The Fresno County EMS dispatch service provides ambulance and fire dispatch for the City of Selma.

This dispatch uses state of the art technology including computer aided dispatch and Advanced Vehicle Location (AVL) that dispatches the nearest resource. The communities of Sanger, Kingsburg, Laton, Riverdale, Fresno and Clovis are all dispatched by this agency and we share critical data that includes mapping, prior call history, and the location of hydrants.

The communication center provides Selma Fire with up to date information on their performance and continues to meet the standards for level of service. The term of the contract will be for three years. See below for annual costs:

<i>COST:</i> (Enter cost of item to be purchased in box below)		<i>BUDGET IMPACT:</i> (Enter amount this non-budgeted item will impact this years' budget in box below – if budgeted, enter NONE).
Fiscal Year 2020/2021 - \$15,938.00		None
<i>FUNDING:</i> (Enter the funding source for this item in box below – if fund exists, enter the balance in the fund).		<i>ON-GOING COST:</i> (Enter the amount that will need to be budgeted each year in box below – if one-time cost, enter NONE).
Funding Source: General Fund		Fiscal Year 2021/2022 – \$16,416.00
FYE 2018-19: 4,566,411		Fiscal Year 2022/2023 - \$16,910.00
Fund Balance:		

RECOMMENDATION: Approve agreement for dispatch services by the Fresno County EMS dispatch center.

/s/

05/14/2020

Robert Petersen, Fire Chief

Date



5-12-20

Teresa Gallavan, City Manager

Date

1 **AGREEMENT**

2 THIS AGREEMENT is made and entered into this _____ day of _____, 2020, by
3 and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter
4 referred to as "COUNTY," and the **CITY OF SELMA**, a Municipal Corporation, whose address is
5 1710 Tucker Street, Selma CA 93662, hereinafter referred to as "CITY".

6 **WITNESSETH:**

7 WHEREAS, CITY receives calls requesting CITY'S fire department ("CITY FIRE") for
8 emergency services and emergency medical first responder services ("EMS"); and

9 WHEREAS, CITY receives calls requesting both fire suppression services and EMS and
10 transfers these calls to COUNTY'S EMS Communications Center for dispatching the appropriate
11 emergency vehicles; and

12 WHEREAS, CITY FIRE now desires to receive dispatching services for fire suppression calls,
13 which will include dispatching of non-transport first responder services, (collectively, "CITY FIRE
14 Dispatching Services") from COUNTY'S EMS Communications Center; and

15 WHEREAS, it is to the mutual benefit and in the best interest of the parties hereto to combine
16 EMS dispatching services and CITY FIRE Dispatching Services for the purpose of providing
17 improved services to the public; and

18 WHEREAS, it has been determined by CITY and COUNTY that there is a need to provide
19 EMS dispatching services and CITY FIRE Dispatching Services through a centralized and combined
20 effort by COUNTY'S EMS Communications Center and CITY FIRE; and

21 WHEREAS, COUNTY'S EMS Communications Center is staffed and operated by K.W.P.H.
22 Enterprises, Inc., doing business as American Ambulance, a California corporation ("PROVIDER");
23 and

24 NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties
25 hereto agree as follows:

26 **1. SERVICES**

27 A. Subject to CITY timely paying COUNTY for CITY FIRE Dispatching Services
28 (defined in Section 4 herein):

1 (1) COUNTY shall be responsible for dispatching equipment, hardware,
2 software (including software licenses), and other technologies, which will be utilized for the triage and
3 entry of information for CITY FIRE Dispatching Services in COUNTY'S EMS Communications
4 Center computer aided dispatch ("CAD") system, in connection with COUNTY'S performance of its
5 CITY FIRE Dispatching Services under this Agreement. In the event that CITY requests additional
6 technologies, not currently available in COUNTY'S EMS Communications Center, CITY shall be
7 solely responsible for all costs to purchase and maintain said technology and/or equipment; and

8 (2) COUNTY shall be responsible for selection, configuration, installation,
9 and maintenance of all dispatching equipment, hardware, software and other technologies associated
10 with this Agreement. All dispatching equipment, hardware, software (including software licenses),
11 and other technologies purchased and/or obtained through this Agreement shall be the sole property of
12 COUNTY; and

13 (3) COUNTY shall provide CITY FIRE Dispatching Services requiring
14 responses by CITY FIRE apparatuses as follows:

15 (a) COUNTY'S EMS Communication Center shall provide all CITY
16 FIRE Dispatching Services in accordance with CITY FIRE'S Policies and Procedures affecting CITY
17 FIRE Dispatching Services under this Agreement ("CITY FIRE'S Policies and Procedures") (to the
18 extent that they relate only to dispatch). CITY FIRE's Policies and Procedures shall be subject to
19 review by COUNTY'S EMS Director, or his or her designee (the "COUNTY'S Representative"), as
20 provided in Section 1.C.(2) herein.

21 (b) COUNTY'S EMS Communication Center shall dispatch CITY
22 FIRE'S apparatuses through radio and electronic communications, and in accordance with CITY
23 FIRE'S Policies and Procedures (to the extent that they relate only to dispatch), which shall be subject
24 to review by COUNTY'S Representative, as provided in Section 1.C.(2) herein. CITY FIRE shall
25 work collaboratively with COUNTY on policies and procedures that are consistent with other fire
26 agencies that are being dispatched in COUNTY'S EMS Communications Center.

27 (c) COUNTY'S EMS Communications Center shall provide pre-
28 arrival instructions to callers requesting CITY FIRE Dispatch Services.

1 (d) COUNTY'S EMS Communications Center shall provide inter-
2 agency coordination regarding requests for fire suppression service, mutual aid and auto aid services,
3 and order specialized fire equipment from CITY or other agencies (*e.g.*, hazardous materials
4 equipment, or "jaws of life") which may be needed to manage an incident, and perform other related
5 duties, all in accordance with CITY FIRE'S Policies and Procedures (to the extent that they relate only
6 to dispatch), which shall be subject to review by COUNTY'S Representative, as provided in Section
7 1.C.(2) herein.

8 (e) COUNTY'S EMS Communications Center shall track all activity
9 of CITY FIRE'S apparatuses utilizing the COUNTY'S EMS Communications Center CAD system.

10 (f) COUNTY shall record all telephone and radio transmissions and
11 provide instant playback as needed. COUNTY shall retain recordings for a minimum of one-hundred
12 eighty (180) days.

13 (g) COUNTY shall provide reports to CITY as requested. COUNTY
14 must be given sufficient time to develop custom adhoc reports or reports that are not already
15 developed.

16 (h) COUNTY shall provide one (1) radio operator for dispatching of
17 CITY FIRE'S apparatuses twenty-four (24) hours a day, seven (7) days a week. CITY understands
18 that the radio operator is not dedicated for the sole purpose of CITY and that the radio operator may be
19 dispatching other fire and EMS providers. CITY FIRE shall work collaboratively with COUNTY on
20 policies and procedures that are consistent with other fire agencies that are being dispatched in
21 COUNTY'S EMS Communications Center. COUNTY shall provide that dispatch staff shall be
22 trained in emergency fire dispatch.

23 (i) COUNTY shall provide that a minimum of one (1) dispatch
24 supervisor shall be on duty at COUNTY'S EMS Communications Center twenty-four (24) hours a
25 day, seven (7) days a week. The supervisor shall be available to CITY'S on-duty fire administration
26 as needed.

27 (j) COUNTY shall maintain an up-to-date manual of CITY FIRE'S
28 Policies and Procedures (subject to review by COUNTY'S Representative, as provided in Section

1 1.C.(2) herein) for all dispatch staff, and shall provide for training and continuing education of
2 dispatch staff as needed.

3 (k) The goal for the immediate dispatch of a fire apparatus, in
4 accordance with CITY FIRE approved dispatch protocols, and excluding multiple unit responses,
5 reassigned responses and other situations beyond the COUNTY'S EMS Communications Center
6 control, shall be sixty (60) seconds. The dispatch time will be measured from the time the telephone is
7 answered by the call taker to the time the first fire apparatus is alerted to the incident either by radio,
8 telephone, pager or station alerting device. A review shall occur for all cases in which dispatches are
9 over ninety (90) seconds, and results will be evaluated for improvement opportunities by the Fire
10 Dispatch Continuous Quality Improvement (CQI) Committee.

11 It is understood that because of the dynamic nature of emergency
12 services, there are situations when the sixty (60) second dispatch goal may not be achieved. Examples
13 of these situations include, but are not limited to:

- 14 1. calls with incomplete, inaccurate or no ANI/ALI information
(including CAD-to-CAD).
- 15 2. calls that do not geo-verify in the CAD.
- 16 3. calls in which the reporting party is either unable or
17 unwilling to immediately provide all required information as part of the call taking process (i.e., non-
18 English speaking, hysterical, or uncooperative) or use of Teletype (TTY) or Telecommunication Device
19 for the Deaf (TDD) or audio relay device.

20 Calls for service that meet one of the above exemption categories
21 shall have a dispatch time of no more than ninety (90) seconds in a minimum of ninety-five percent (95%)
22 of calls received each month.

23 B. It is understood by the parties hereto that COUNTY'S provision of CITY FIRE
24 Dispatching Services herein does not include any COUNTY provision of fire suppression services,
25 and that COUNTY is providing CITY FIRE Dispatching Services herein to CITY on a non-exclusive
26 basis.

27 C. CITY shall perform the following functions:

- 28 (1) CITY FIRE shall provide all fire suppression services for all fire
suppression calls dispatched by COUNTY'S EMS Communications Center requiring CITY FIRE

1 apparatuses in accordance with CITY FIRE'S Policies and Procedures.

2 (2) CITY FIRE shall consult with COUNTY'S Representative in developing
3 CITY FIRE'S Policies and Procedures relating to dispatch only. CITY shall provide CITY FIRE'S
4 Policies and Procedures relating to dispatch to COUNTY for review thereof by COUNTY'S
5 Representative. CITY shall not approve CITY FIRE'S Policies and Procedures relating to dispatch
6 until first having conferred with COUNTY'S Representative and such representative agrees that such
7 policies and procedures are not inconsistent with the COUNTY'S EMS Communication Center's
8 Policies and Procedures, and that CITY FIRE'S Policies and Procedures do not create additional
9 workload for staff or impact other programs in the COUNTY'S EMS Communications Center.
10 COUNTY'S Representative shall have neither the right nor the duty to approve the number of CITY
11 FIRE apparatuses or personnel, or amount of CITY FIRE equipment or other resources, that CITY
12 FIRE deems sufficient to respond to any calls for CITY FIRE Dispatching Services, or other CITY
13 FIRE Policies and Procedures unrelated to dispatch. CITY FIRE shall be reasonable in developing
14 CITY FIRE'S Policies and Procedures relating to dispatch such that those policies and procedures are
15 substantially consistent with COUNTY'S EMS Communication Center's Policies and Procedures.

16 (3) CITY shall provide continuing education and training to COUNTY'S
17 EMS Communications Center radio operators and staff regarding the dispatching and management of
18 CITY FIRE resources, as needed.

19 (4) CITY shall assure that all calls to CITY for CITY FIRE calls for service
20 are immediately transferred to COUNTY'S EMS Communications Center.

21 (5) Upon request of COUNTY, CITY shall provide COUNTY with data that
22 includes the exact times that EMS and CITY FIRE calls for service are received at CITY'S Police
23 Department Communications Center (or other point of CITY contact, if any) and transferred to
24 COUNTY'S EMS Communications Center.

25 (6) CITY agrees to participate in an internal quality improvement program,
26 which includes the participation of COUNTY and PROVIDER.

27 (7) CITY shall be responsible for the provision and maintenance of all radio
28 and computer equipment in CITY FIRE apparatuses and radio infrastructure.

1 **2. TERM**

2 A. This Agreement shall become effective on the 1st day of July, 2020 and shall
3 continue in full force and effect, and terminate on the 30th day of June, 2023 at 11:59 P.M., unless
4 sooner terminated as provided herein.

5 B. This Agreement may be renewed with approval of CITY and COUNTY through
6 written amendment and modification of terms and conditions herein set forth.

7 C. Upon the termination of this Agreement, COUNTY shall promptly provide
8 CITY FIRE with the data generated through the CITY FIRE Dispatching Services provided herein in a
9 commonly usable electronic format.

10 **3. TERMINATION**

11 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be
12 provided hereunder, are contingent on the approval of funds by the appropriating governmental
13 agency, provided however, should sufficient funds not be allocated, (i) the services provided may be
14 modified at any time upon the parties' mutual written agreement, or (ii) this Agreement may be
15 terminated at any time by CITY or COUNTY giving at least ninety (90) days' advance written notice
16 of an intention to terminate to the other party.

17 B. Without Cause - Under circumstances other than those set forth above, this
18 Agreement may be terminated by CITY or COUNTY upon the giving of at least ninety (90) days'
19 advance written notice of an intention to terminate to the other party.

20 C. Material Breach - Either party may terminate this Agreement at any time for
21 cause for the other party's material breach of its obligations herein if not less than thirty (30) days'
22 advance, written notice has been given to the other party and such breach remains uncured within that
23 thirty (30) day period. The party receiving such notice may respond to said notice and any charges
24 contained therein within that thirty (30) day period.

25 D. CITY shall compensate or provide funding to COUNTY for any services
26 performed or costs incurred under this Agreement prior to any termination of this Agreement.

27 **4. COMPENSATION FOR SERVICES**

1 A. For COUNTY'S performance of FIRE Dispatching Services herein, CITY agrees
2 to pay COUNTY and COUNTY agrees to receive compensation pursuant to Schedule A, attached
3 hereto and incorporated herein by this reference. In no event shall compensation for COUNTY'S
4 performance of CITY FIRE Dispatching Services under this Agreement be in excess of the amounts
5 listed as follows:

6 (1) For the period of July 1, 2020 through June 30, 2021, the amount of this
7 Agreement shall not exceed Fifteen Thousand Nine Hundred Thirty-Eight and 00/100 Dollars
8 (\$15,938.00).

9 (2) For the period of July 1, 2021 through June 30, 2022, the amount of this
10 Agreement shall not exceed Sixteen Thousand Four Hundred Sixteen and 00/100 Dollars
11 (\$16,416.00).

12 (3) For the period of July 1, 2022 through June 30, 2023, the amount of this
13 Agreement shall not exceed Sixteen Thousand Nine Hundred Ten and 00/100 Dollars (\$16,910.00)

14 B. Payments by CITY shall be in arrears, for services provided during the preceding
15 month, within forty-five (45) days after receipt and verification of COUNTY'S invoices by CITY
16 FIRE. All payments shall be remitted to COUNTY at the following address: County of Fresno,
17 Department of Public Health – Emergency Medical Services Division, P.O. Box 11867, Fresno,
18 California, 93775.

19 **5. INVOICING**

20 COUNTY shall invoice CITY quarterly, addressed to the City of Selma, Fire
21 Department, 1710 Tucker Street, Selma, California, 93662, Attention: Fire Chief.

22 **6. INDEPENDENT CONTRACTOR**

23 In performance of the work, duties, and obligations assumed by COUNTY under this
24 Agreement, it is mutually understood and agreed that COUNTY, including any and all of COUNTY'S
25 officers, agents, and employees will at all times be acting and performing as an independent
26 contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee,
27 joint venture, partner, or associate of CITY. Furthermore, CITY shall have no right to control or
28 supervise or direct the manner or method by which COUNTY shall perform its work and function,

1 except for COUNTY'S compliance with CITY FIRE'S Policies and Procedures, herein, and as
2 described in Section 1.A.(3)(h) of this Agreement. However, CITY shall retain the right to administer
3 this Agreement so as to verify that COUNTY is performing its obligations in accordance with the
4 terms and conditions thereof. COUNTY and CITY shall comply with all applicable provisions of law
5 and the rules and regulations, if any, of governmental authorities having jurisdiction over matters
6 which are directly or indirectly the subject of this Agreement.

7 Because of its status as an independent contractor, COUNTY shall have absolutely no
8 right to employment rights and benefits available to CITY employees. COUNTY shall be solely liable
9 and responsible for providing to, or on behalf of, its employees all legally-required employee benefits.
10 In addition, COUNTY shall be solely responsible and save CITY harmless from all matters relating to
11 payment of COUNTY'S employees, including compliance with Social Security, withholding, and all
12 other regulations governing such matters. It is acknowledged that during the term of this Agreement,
13 COUNTY may be providing services to others unrelated to CITY or to this Agreement.

14 **7. MODIFICATION**

15 Any matters of this Agreement may be modified from time to time by the written
16 consent of all the parties hereto without, in any way, affecting the remainder.

17 **8. HOLD-HARMLESS**

18 A. CITY agrees to indemnify, save, hold harmless, and at COUNTY'S request,
19 defend COUNTY, including its officers, agents, and employees, from any and all costs and expenses
20 (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to
21 COUNTY in connection with the performance, or failure to perform, by CITY, including its officers,
22 agents, or employees under this Agreement, and from any and all costs and expenses (including
23 attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to any person,
24 firm, or corporation who may be injured or damaged by the performance, or failure to perform, of
25 CITY, including its officers, agents, or employees under this Agreement.

26 B. COUNTY agrees to indemnify, save, hold harmless, and at CITY'S request,
27 defend CITY, including its officers, agents, and employees from any and all costs and expenses
28 (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to

1 CITY in connection with the performance, or failure to perform, by COUNTY, including its officers,
2 agents, employees or PROVIDER, under this Agreement, and from any and all costs and expenses
3 (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to
4 any person, firm, or corporation who may be injured or damaged by the performance, or failure to
5 perform, of COUNTY, including its officers, agents, employees or PROVIDER under this Agreement.

6 C. In the event of concurrent negligence on the part of COUNTY or any of its
7 officers, agents, employees or PROVIDER, and of CITY or any of its officers, agents, or employees,
8 the liability for any and all such claims, demands and actions in law or equity for such costs and
9 expenses (including attorneys' fees and costs), damages, and losses shall be apportioned under the
10 State of California's theory of comparative negligence as presently established or as may be modified
11 hereafter.

12 D. This Section 7 shall survive termination or expiration of this Agreement.

13 **9. INSURANCE**

14 Without limiting the indemnification of each party as stated in Section 7 above, it is
15 understood and agreed that CITY and COUNTY shall each maintain, at their sole expense, insurance
16 policies or self-insurance programs including, but not limited to, an insurance pooling arrangement
17 and/or Joint Powers Agreement to fund their respective liabilities throughout the term of this
18 agreement. Coverage shall be provided for comprehensive general liability, automobile liability,
19 professional liability, and workers' compensation exposure. Evidence of Insurance, Certificates of
20 Insurance or other similar documentation shall not be required of either party under this Agreement,
21 except for Commercial General Liability coverage. Each party will provide the other party with an
22 appropriate Commercial General Liability insurance certificate with limits of not less than Two
23 Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars
24 (\$4,000,000) along with an appropriate endorsement naming the other party as an additional insured
25 on the Commercial General Liability policy. COUNTY shall cause PROVIDER to maintain insurance
26 coverage that is consistent with the current EMS PROVIDER Agreement between COUNTY and
27 PROVIDER.
28

1 **10. CONFIDENTIALITY**

2 All services performed by COUNTY under this Agreement shall be in strict
3 conformance with all applicable Federal, State of California and/or local laws and regulations relating
4 to confidentiality.

5 **11. NON-DISCRIMINATION**

6 During the performance of this Agreement, COUNTY shall not unlawfully discriminate
7 against any employee or applicant for employment, or recipient of services, because of race, religious
8 creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic
9 information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation,
10 military or veteran status pursuant to all applicable State of California and Federal statutes and
11 regulations.

12 **12. RECORDS**

13 Each party shall maintain its records in connection with the respective services referred
14 to under this Agreement. Such records must be maintained for a minimum of three (3) years. Records
15 must also be maintained a minimum of three (3) years after the termination of this Agreement. The
16 party generating the records shall maintain ownership of the records upon termination of this
17 Agreement.

18 **13. AUDITS AND INSPECTIONS**

19 Each party shall at any time during business hours, and as often as the other party may
20 deem necessary, make available to the other party for examination all of the former party's records
21 and data with respect to the matters covered by this Agreement. Each party shall, upon request by the
22 other party, permit the other party to audit and inspect all such records and data necessary to ensure
23 the former party's compliance with the terms of this Agreement.

24 If this Agreement exceeds Ten Thousand and No/100 Dollars (\$10,000.00), COUNTY
25 shall be subject to the examination and audit of the State Auditor for a period of three (3) years after
26 final payment under contract (Government Code section 8546.7).

27 **14. PROVIDER**

28 The parties hereto acknowledge that PROVIDER, or its replacement, if any during the

1 term of the PROVIDER Agreement, will carry out COUNTY'S provision of dispatching services
2 herein. In the event of any such replacement of PROVIDER, the replacement EMS Provider
3 Agreement will be on substantially the same terms as the EMS Provider Agreement to the extent that
4 it concerns this Agreement, as provided herein.

5 **15. FORCE MAJEURE**

6 A. If either party hereto is rendered unable, wholly or in part, by Force Majeure to
7 carry out its obligations under this Agreement, that party shall give to the other party hereto prompt
8 written notice of the Force Majeure with full particulars relating thereto. Thereupon, the obligations
9 of the party giving the notice, so far as they are affected by the Force Majeure, shall be suspended
10 during, but no longer than, the continuance of the Force Majeure, except for a reasonable time
11 thereafter required to resume performance.

12 B. During any period in which either party hereto is excused from performance by
13 reason of the occurrence of an event of Force Majeure, the party so excused shall promptly,
14 diligently, and in good faith take all reasonable action required in order for it to be able to promptly
15 commence or resume performance of its obligations under this Agreement. Without limiting the
16 generality of the foregoing, the party so excused from performance shall, during any such period of
17 Force Majeure, take all reasonable action necessary to terminate any temporary restraining order or
18 preliminary or permanent injunctions to enable it to so commence or resume performance of its
19 obligations under this Agreement.

20 C. The party whose performance is excused due to the occurrence of an event of
21 Force Majeure shall, during such period, keep the other party hereto notified of all such actions
22 required in order for it to be able to commence or resume performance of its obligations under this
23 Agreement.

24 D. "Force Majeure" is defined as an Act of God, act of public enemy, war, and
25 other extraordinary causes not reasonably within the control of either of the parties hereto.

26 ///

27 **16. NOTICES**

28 The persons having authority to give and receive notices under this Agreement and their

addresses include the following:

COUNTY

Director, County of Fresno
Department of Public Health
P.O. Box 11867
Fresno, CA 93775

CITY

City of Selma
Attn: City Manager
1710 Tucker Street
Selma, CA 93662

Any and all notices between COUNTY and CITY provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties hereto, or in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed to such party, except for notices of termination, which are effective upon receipt. Notices under this Agreement are not modifications to this Agreement.

17. GOVERNING LAW

The parties hereto agree, that for the purposes of venue, performance under this Agreement is to be in Fresno County, California.

The rights and obligations of the parties hereto and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

18. SEVERABILITY

The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in the Agreement shall not affect the other provisions.

19. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between CITY and COUNTY with respect to the subject matter hereof and supersedes all previous agreement negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement. This Agreement may be executed in several counterparts by the parties hereto, in which case, all of such executed duplicate counterpart originals thereof, taken together, shall be deemed to be one and the same legal instrument.

20. NO THIRD PARTY BENEFICIARIES

Notwithstanding anything stated to the contrary in this Agreement, there shall not be any intended third party beneficiaries to this Agreement.

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
2 day and year first hereinabove written.
3

4
5 **COUNTY OF FRESNO:**

6 By: _____
7 Ernest Buddy Mendes, Chairman of the
8 Board of Supervisors of the County of Fresno

9
10 Bernice E. Seidel
11 Clerk of the Board of Supervisors of the
12 County of Fresno

13 By: _____
14 Deputy

5 **CITY OF SELMA:**

6 By: _____
7 Mayor

8
9 City Clerk

10 By: _____

11 City Manager

12 By: _____

13
14 APPROVED AS TO LEGAL FORM:
15 SELMA CITY ATTORNEY

16 By: _____

17 Mailing Address:
18 Attn.: Fire Department
19 1710 Tucker Street
20 Selma, CA 93662

21 Fund/Subclass: 0001/10000
22 Organization: 56201693
23 Account: 5039
24

SCHEDULE A

Quarter	Dates of Service	Payment Amount	Payment Due Date
1	July 1, 2020 to September 30, 2020	\$3,984.50	15-Oct-20
2	October 1, 2020 to December 31, 2020	\$3,984.50	15-Jan-21
3	January 2021 to March 31, 2021	\$3,984.50	15-Apr-21
4	April 1, 2021 to June 30, 2021	\$3,984.50	15-Jul-21
5	July 1, 2021 to September 30, 2021	\$4,104.00	15-Oct-21
6	October 1, 2021 to December 31, 2021	\$4,104.00	15-Jan-22
7	January 1, 2022 to March 31, 2022	\$4,104.00	15-Apr-22
8	April 1, 2022 to June 30, 2022	\$4,104.00	15-Jul-22
9	July 1, 2022 to September 30, 2022	\$4,227.50	15-Oct-22
10	October 1, 2022 to December 31, 2022	\$4,227.50	15-Jan-23
11	January 1, 2023 to March 31, 2023	\$4,227.50	15-Apr-23
12	April 1, 2023 to June 30, 2023	\$4,227.50	15-Jul-23

**CITY MANAGER'S/STAFF'S REPORT
REGULAR CITY COUNCIL MEETING DATE:**

May 18, 2020


ITEM NO: 1.b.

SUBJECT: Consideration of Amendment No. 1 to the agreement for services between the City and Liebert Cassidy Whitmore


DISCUSSION: The attached is the first amendment to the agreement between the City and Liebert Cassidy Whitmore ("LCW") for special legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings. The amendment provides for changes in the fee schedule which were first approved on October 30, 2013.

Services are on an as-needed basis and no monthly retainer is required.

RECOMMENDATION: Approve Amendment No. 1 to the Agreement between the City and Liebert Cassidy Whitmore to provide Special Services and authorize the City Manager to execute the agreement.


Christina Arias, Human Resources Manager

5-13-20
Date


Teresa Gallavan, City Manager

5-12-20
Date

**AMENDMENT NO. 1 TO
AGREEMENT FOR SERVICES
BETWEEN THE CITY OF SELMA
AND LIEBERT CASSIDY WHITMORE**

THIS AMENDMENT is executed by and between Liebert Cassidy Whitmore (Attorney) and the City of Selma (City), and will amend the prior agreement between the parties entitled Agreement For Services which was effective on October 30, 2013.

WHEREAS, the parties desire to amend their agreement to allow or provide for the continued consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings;

NOW, THEREFORE, the parties hereto agree as follows:

1. This amendment shall be effective as of May 6, 2020.
2. Exhibit B - Fee Schedule is updated to adjust the Hourly Rates and Cost Schedule as follows:

Hourly Rates (Effective July 1, 2019)

Partners	\$380.00
Senior Counsel	\$325.00
Associates	\$210.00 - \$305.00
Labor Relations/HR Consultant	\$240.00
Paralegals	\$135.00
E-Discovery Specialists	\$135.00
Law Clerks	\$135.00 - \$175.00

Cost Schedule

Photocopies	\$.15
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3. That in all other respects the prior agreement of the parties shall remain in full force and effect except as amended herein.

LIEBERT CASSIDY WHITMORE,
A Professional Corporation

CITY OF SELMA

By _____

By _____

Print _____

Print _____

Title _____

Title _____

Date _____

Date _____

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation ("Attorney"), and the CITY OF SELMA, A Municipal Corporation ("City").

1. Conditions

This Agreement will not take effect, and Attorney will have no obligation to provide services, until City returns a properly signed and executed copy of this Agreement.

2. Attorney's Services

Attorney agrees to provide City with consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by City or otherwise required by law.

3. Fees, Costs, Expenses

City agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including reasonable travel time.

The current range of hourly rates for Attorney time is from One Hundred Eighty to Three Hundred Twenty-Five Dollars (\$180.00 - \$325.00), and from Seventy to One Hundred Sixty Dollars (\$70.00 - \$160.00) for time of paraprofessional and litigation support staff. Attorney reviews its hourly rates on an annual basis and, if appropriate, adjusts them effective July 1. Attorney will provide the City with written notification of any adjustment in the range of rates. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour.

City agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of City. Attorney bills photocopying charges at Fifteen Cents (\$0.15) per page and facsimile charges at Fifty Cents (\$0.50) per page. A Public Agency Fee Schedule is attached to this Agreement.

Payment by City against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

4. Arbitration of Professional Liability or Other Claims

Disputes. If a dispute between City and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal

services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

5. File Retention

After our services conclude, Attorney will, upon City's request, deliver the file for the matter to City, along with any funds or property of City's in our possession. If City requests the file for the matter, Attorney will retain a copy of the file at the City's expense. If City does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If City does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to City. At any point during the seven (7) year period, City may request delivery of the file.

6. Assignment

This Agreement is not assignable without the written consent of City.

7. Independent Contractor

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of City.

8. Authority


The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

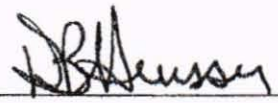
9. Term

This Agreement is effective October 30, 2013, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE,
A Professional Corporation

CITY OF SELMA,
A Municipal Corporation

By: 
Name: J. Scott Tiedeman
Title: PRESIDENT
Date: 12/19/13

By: 
Name: DB Hesser
Title: City Manager
Date: 5 December 2013

I. PUBLIC AGENCY FEE SCHEDULE

Hourly Rates (As of Agreement Effective Date)

Partners	\$300.00 - \$325.00
Of Counsel	\$265.00 - \$285.00
Associates	\$180.00 - \$265.00
Paraprofessionals & Litigation Support	\$70.00 - \$160.00

II. COST SCHEDULE

1. Photocopies	\$0.15 per copy
2. Facsimile Transmittal	\$0.50 per page

CITY MANAGER'S/STAFF'S REPORT
REGULAR CITY COUNCIL MEETING DATE:

May 18, 2020

ITEM NO: 1.c.


SUBJECT: Declaring Surplus and Sale, Donation or Disposal of City Property

RECOMMENDATION: Adopt a Resolution declaring the vehicles on the Surplus Vehicle List as surplus, and authorize the sale, donation or disposal of the vehicles.

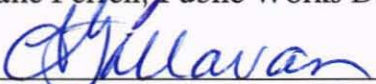
DISCUSSION: The Public Works Department is requesting Council's approval to declare as surplus the vehicle/equipment list attached hereto as "Exhibit A", and to authorize the sale, donation or disposal of said vehicles/equipment. Given the age, mileage and general condition of these vehicles, the use of these vehicles/equipment are no longer cost-effective for the City.

Unit #	Dept	Year	Use	Unit Description	License	Vin/Serial #	Notes
179	2200	2011	Police Patrol	Ford Crown Vic	1390718	2FABP7BV0BX180046	non-repairable (Accident)
222	2100	2007	Police Detective	Ford Crown Vic	5ZRP778	2FAFP71W67X162699	High mileage & engine issues
2100	2200	2000	Radar trailer	Mighty Rover	1079889	4AGAU1114YC033191	non-repairable
4002	5300	2013	Chainsaw	Stihl MS250		292361878	Engine issues
4009	5300	2013	Chainsaw	Stihl MS250		292361878	Engine issues
4100	5300	2011	Pole Saw	Stihl HT131		288273359	Engine issues
4016	5400	2017	Chainsaw	Stihl MS291		510988744	Engine issues

RECOMMENDATION: Adopt a Resolution declaring the vehicles on the Surplus Vehicle List as surplus, and authorize the sale, donation or disposal of the vehicles.


Shane Ferrell, Public Works Director

5-13-2020
Date


Teresa Gallavan, City Manager

5-13-20
Date

RESOLUTION NO. 2020 – __R

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA,
CALIFORNIA, DECLARING CERTAIN EQUIPMENT SURPLUS AND
AUTHORIZING THEIR SALE, DONATION, OR DISPOSAL**

WHEREAS, in accordance with the provisions of Government Code Section 37350, the City is permitted to dispose of personal property for the common benefit; and

WHEREAS, the City desires to declare certain equipment to be surplus. A description of said equipment is attached hereto as "Exhibit A".

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELMA
HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:**

Section 1. The City Council finds that the above recitals are true and correct and are incorporated herein by reference.

Section 2. Given the age and condition of the various equipment set forth in Exhibit A, said equipment has become obsolete and replaced with new, reliable equipment, the City Council hereby declares the various equipment as surplus property.

Section 3. The City Manager is hereby directed to sell, donate or dispose of the surplus equipment, and take all actions necessary to effectuate the direction set forth in this Resolution.

Section 4. Severability. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

Section 5. Effective Date. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Selma on this 18th day of May 2020, by the following roll call vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

Louis Franco, Mayor

Reyna Rivera, City Clerk

Surplus Items - Exhibit A 5-18-2020

Unit #	Dept	Year	Use	Unit Description	License	Vin/Serial #	Notes
179	2200	2011	Police Patrol	Ford Crown Vic	1390718	2FABP7BV0BX180046	non-repairable (Accident)
222	2100	2007	Police Detective	Ford Crown Vic	5ZRP778	2FAFP71W67X162699	High mileage & engine issues
2100	2200	2000	Radar trailer	Mighty Rover	1079889	4AGAU1114YC033191	non-repairable
4002	5300	2013	Chainsaw	Stihl MS250		292361878	Engine issues
4009	5300	2013	Chainsaw	Stihl MS250		292361878	Engine issues
4100	5300	2011	Pole Saw	Stihl HT131		288273359	Engine issues
4016	5400	2017	Chainsaw	Stihl MS291		510988744	Engine damaged-ran with straight fuel

CITY MANAGER'S/STAFF'S REPORT
REGULAR CITY COUNCIL MEETING DATE:

May 18, 2020

ITEM NO:

1.d.

SUBJECT: Consideration of a Resolution approving and authorizing execution of Master Services Agreement with Newport Group Inc. and 457 Deferred Compensation Plan Investment Advisor Agreement with Strategic Retirement Advisors


RECOMMENDATION: Council adopt Resolution approving and authorizing execution of Master Services Agreement with Newport Group Inc. and 457 Deferred Compensation Plan Investment Advisor Agreement with Strategic Retirement Advisors.

DISCUSSION: The City is the plan sponsor and a fiduciary for a deferred compensation retirement plan established pursuant to Internal Revenue Code §457 for City employees. As the plan sponsor the City has the obligation of appropriately investing money paid into the plan by employees (plan participants) in a manner which conforms to the Employment Retirement Income Security Act of 1974 (ERISA) and, to the extent investments are made in securities subject to the Federal Securities Act to conform with the requirements of those enactments as well.

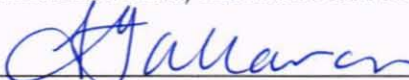
In order to appropriately discharge its fiduciary obligation to the plan and its employees, the City has retained both an investment advisor and a plan administrator in order to fully conform to the City's legal obligations under the aforementioned enactments.

The City of Selma has had an existing agreement with Strategic Retirement Advisors since 2009 and they are now requesting renewal agreements. This is a voluntary option for employees, any costs associated would be absorbed by employees. These agreements are cost neutral for the City.

RECOMMENDATION: Council adopt Resolution approving and authorizing execution of Master Services Agreement with Newport Group Inc. and 457 Deferred Compensation Plan Investment Advisor Agreement with Strategic Retirement Advisors.


Christina Arias, Human Resources Manager

5-14-20
Date


Teresa Gallavan, City Manager

5-14-20
Date

RESOLUTION NO. 2020-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA APPROVING
AND AUTHORIZING EXECUTION OF MASTER SERVICES AGREEMENT WITH
NEWPORT GROUP INC AND 457 DEFERRED COMPENSATION PLAN INVESTMENT
ADVISOR AGREEMENT WITH STRATEGIC RETIREMENT ADVISORS**

WHEREAS, the City of Selma is the plan sponsor and a fiduciary for a deferred compensation retirement plan established pursuant to Internal Revenue Code §457; and

WHEREAS, as the plan sponsor the City has the obligation of appropriately investing money paid into the plan by plan participants in a manner which conforms to the Employment Retirement Income Security Act of 1974 (ERISA) and, to the extent investments are made in securities subject to the Federal Securities Act to conform with the requirements of those enactments as well; and

WHEREAS, to appropriately discharge its fiduciary obligation to the plan and the plan participants, the City Council finds and determines that it is necessary to retain both an investment advisor and a plan administrator in order to fully conform to the City's legal obligations under the aforementioned enactments.

NOW, THEREFORE, be it resolved as follows:

1. The foregoing recitals are true and correct.
2. The City Council has reviewed and approves the 457 Deferred Compensation Plan Investment Advisor Agreement between the City of Selma and Strategic Retirement Advisors and the Master Services Agreement between the City of Selma and Newport Group, Inc., a Delaware Corporation and approves each agreement.
3. The City Manager is authorized to execute both the 457 Deferred Compensation Plan Investment Advisor Agreement and Master Services Agreement, copies of which are attached and incorporated by this reference as Exhibit A and B, respectively.

The foregoing resolution was duly approved by the Selma City Council at a regular meeting held on the 18th day of May, 2020 by the following vote, to wit:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Louis Franco, Mayor

ATTEST:

Reyna Rivera, City Clerk

Master Services Agreement

This **Master Services Agreement ("MSA")** is entered into as of [REDACTED] between **Newport Group, Inc.**, a Delaware corporation, ("**Newport Group**"), and **City of Selma** (the "**Company**").

RECITALS

WHEREAS, Newport Group provides recordkeeping, administration, consulting and insurance brokerage and policy administration services to tax-qualified, nonqualified and welfare benefit plan sponsors, including public, private and governmental employers, and provides insurance brokerage and policy administration services to corporations, banks, insurance companies and other financial services companies.

WHEREAS, the Company desires to retain Newport Group to provide one or more of such services to the Company.

NOW THEREFORE, in consideration of their mutual undertakings as set forth in this MSA and the applicable Statements of Work, and for other good and valuable consideration, the parties agree as follows:

1. DEFINITIONS

For purposes of each Agreement, the following terms shall have the meanings assigned below:

- 1.1 "**Affiliate**" means, with respect to a party, an organization that is directly or indirectly owned or controlled by such party, owns or controls such party or is under common ownership or control with such party. Newport Group Affiliates include Newport Group Securities, Inc., Newport Group Consulting, LLC and Newport Trust Company
- 1.2 "**Agreement**" means each Statement of Work and this MSA as incorporated by reference into such Statement of Work.
- 1.3 "**Applicable Law**" means the constitutions, statutes, rules, regulations and orders of governmental bodies or regulatory agencies, self-regulatory organizations and all orders and decrees of all courts and arbitrators in proceedings or actions applicable to a party in connection with the performance of its obligations under an Agreement.
- 1.4 "**Authorized Person**" means the person executing a Statement of Work on behalf of the Company or an Affiliate of the Company and any individual designated by the Company in Instructions communicated to Newport Group. The Company shall notify Newport Group of any limitations on an Authorized Person's authority. Newport Group may continue to rely upon designations of Authorized Persons until it receives written notice from the Company to the contrary.
- 1.5 "**Business Day**" means, except as otherwise provided in a Statement of Work, each day on which securities are traded on the New York Stock Exchange.
- 1.6 "**Code**" means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.7 "**ERISA**" means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder, as amended from time to time.

- 1.8 **"Instructions"** means the Company's written directions and instructions to Newport Group, including, without limitation, executed Plan documents, Plan administration manuals, written interpretations, Plan documents, policies and procedures, the Instructions described in an applicable Agreement and the designation of Authorized Persons. The transmission of Plan, participant and financial information from the Company to Newport Group through agreed-upon transmission protocols, either directly from the Company or indirectly from third parties retained by the Company (including, for example, prior record keepers) shall constitute an instruction to Newport Group to accept and use such information, subject to Article 6. Instructions from an Authorized Person constitute Instructions from the Company.
- 1.9 **"Losses"** means any damages, losses, costs, judgments, fines, penalties and expenses (including reasonably incurred attorney's fees, defense and investigation costs and disbursements).
- 1.9 **"Participant"** means the participant and his or her beneficiary or beneficiaries, as defined in the Plan.
- 1.10 **"Personal Information"** means, with respect to Company employees and Plan participants and beneficiaries, an individual's name (either first and last name or first initial and last name) in combination with any one or more of the following data elements: (i) social security number, (ii) driver's license or other government-issued number, (iii) compensation and Plan account number or Plan account or benefit information, in combination with a security code, access code, or password that would permit access to an individual's Plan account. Personal Information does not include any information that is required to be reported in public filings with governmental agencies, is lawfully obtained from publicly available information or that is made available to the general public.
- 1.11 **"Plan"** means, in connection with the Services, the plan or plans identified in the applicable Statement of Work.
- 1.12 **"Services"** means the services that Newport Group is obligated to provide (or otherwise provides) for or on behalf of the Company under the terms of a Statement of Work.
- 1.13 **"Statement of Work"** means a contract entered into between or among (a) Newport Group or an Affiliate of Newport Group, (b) the Company or an Affiliate of the Company and/or (c) a Plan fiduciary, which incorporates the provisions of this MSA by reference and which describes the Services, fees and mutual undertakings of the parties with respect to the Services. A Company Affiliate and/or Plan fiduciary that executes a Statement of Work is bound by the provisions of this MSA applicable to the Company with respect to the engagement set forth in such Statement of Work. The Newport Group Affiliate executing the Statement of Work is bound by the provisions of this MSA applicable to Newport Group with respect to the engagement set forth in such Statement of Work.

2. NEWPORT GROUP RESPONSIBILITIES

- 2.1 **Statement of Work.** Newport Group agrees to provide the Services described in the applicable Statement of Work in accordance with the terms thereof. Unless otherwise specified, the Newport Group Affiliate that executes a Statement of Work is solely responsible for providing the Services described in such Statement of Work and for the Newport Group obligations under this MSA with respect to such Statement of Work.
- 2.2 **Standard of Care.** Newport Group will discharge its duties under each Statement of Work in accordance with Applicable Law and in a workmanlike manner and in accordance with commercially reasonable standards. Nothing herein will in any way constitute a waiver or limitation of any rights that the Company may have under any federal or state securities laws based on negligence, which cannot be modified in advance by contract.

3. COMPANY RESPONSIBILITIES

- 3.1 **Statement of Work.** Newport Group's performance of Services is contingent upon timely performance of the Company's obligations as set forth in the applicable Statement of Work.
- 3.2 **Fees.** The Company agrees to pay Newport Group's fees as provided in Article 5 and the applicable Statement of Work.
- 3.3 **Provision of Information.** The Company agrees to timely provide Newport Group with such information, documents and Instructions as may be necessary for Newport Group to perform the Services. The Company is responsible for ensuring that such information, documentation and Instructions are complete and accurate and shall promptly inform Newport Group in writing of any changes to the Plan or the Company, or any change in Authorized Persons, that may affect Newport Group's obligations under an Agreement.
- 3.4 **Review.** The Company agrees to promptly review all reports, statements and other documents prepared and delivered to the Company by Newport Group and promptly report to Newport Group any inaccuracies, errors or omissions in such reports, statements and other documents.

4. REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENTS

- 4.1 **Representations and Warranties of the Parties.** Each party hereto represents and warrants to the other that: (a) it is a duly organized legal entity having all requisite authority under its organizing documents and Applicable Laws to enter into this MSA and each Agreement and to perform its obligations hereunder; (b) the execution and delivery of this MSA and each Agreement and the performance of the obligations contemplated have been duly and validly authorized by all necessary action, and this MSA and each Agreement constitute a valid and legally binding obligation of such party enforceable in accordance with its terms; (c) the person executing this MSA and each Agreement on its behalf is duly authorized and empowered to execute and deliver the MSA and each Agreement; and (d) it will perform its obligations under each Agreement in accordance with the provisions of Applicable Law.
- 4.2 **Company Instructions and Authorizations; Authority to Appoint Newport Group.** The Company represents and warrants that (a) its Instructions or authorizations under each Agreement will be made in accordance with the terms of the Plan and the provisions of Applicable Law; and (b) it has the authority under the Plan and other governing instruments and Applicable Law to select Newport Group as a service provider to the Plan.
- 4.3 **No Fiduciary Status.** Unless expressly provided otherwise in a Statement of Work, the parties acknowledge and agree that, in performing the Services, neither Newport Group nor any of its Affiliates, employees or agents is acting as a "fiduciary" (as such term is defined under ERISA and the Investment Advisers Act of 1940, as amended).
- 4.4 **Newport Group's Capacity as Service Provider.** The Company acknowledges that Newport Group and its Affiliates are not, and shall not be deemed to be, an insurer, underwriter, or guarantor in connection with: (a) Newport Group's performance of Services; or (b) Newport Group's offering of any products pursuant to the terms and conditions of each Agreement.
- 4.5 **Tax, Legal and Accounting Matters.** Newport Group assumes responsibility for the content of its work product provided to the Company under each Agreement. The parties acknowledge and agree that Newport Group has not been retained to provide, and is not providing, independent advice with respect to legal, tax or accounting matters affecting the Company or the Plan. Accordingly, the Company may not rely on Newport Group's positions as independent advice. Specifically, Newport Group's positions

on tax matters may not be relied upon to avoid tax penalties imposed under U.S. tax laws. The Company represents and warrants that it has relied and will rely on its own advisers to determine the appropriate legal, tax and accounting treatment related to the design, implementation and administration of the Plan, insurance policies and investments.

5. COMPENSATION

- 5.1 **Fees.** In consideration for Newport Group's performance of the Services, the Company agrees to pay the fees and to reimburse Newport Group for certain expenses, each as set forth herein and in the Fee Schedule appended to the applicable Statement of Work.
- 5.2 **Payment Terms.** Unless provided otherwise in an applicable Statement of Work, Newport Group will invoice the Company on a quarterly basis for its fees and expenses. The invoice will include recurring fees, billed in advance, and any earned project fees, travel and direct expenses described herein during the previous quarter. Invoices are due upon receipt. Balances not paid within sixty (60) days of the date of the invoice will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. If the Company shall not have disputed, in writing, any portion of an invoice, within sixty (60) days of receipt thereof, such invoice shall be deemed accepted by the Company. In the event any balance is past due in excess of sixty (60) days, Newport Group reserves the right to discontinue all Services until the account is brought current. If Newport Group is required to commence collection procedures to collect fees, and prevails, the Company shall be responsible for all expenses incurred by Newport Group in connection therewith, including attorneys' fees and legal costs. In the event Newport Group (including any of its Affiliates) is requested or authorized by the Company, or required by government regulation, subpoena, or other legal process (including but in no way limited to government audit) to produce documents, personnel, or otherwise provide assistance in connection with such legal process, the Company agrees to pay Newport Group's normal and reasonable hourly rates and expenses whether or not Newport Group is named as a party, and whether or not Newport Group is still engaged to perform services for the Company.
- 5.3 **Taxes.** Newport Group is responsible for payment of all applicable taxes with respect to fees paid to Newport Group. The Company will not pay or withhold taxes on payments due Newport Group, except to the extent required by Applicable Law.

6. INSTRUCTIONS

- 6.1 **Instructions.** The Company is responsible for ensuring that all information, documents and Instructions provided to Newport Group are complete and accurate. Newport Group may rely in all respects, without having to make further inquiry, on the information, documents and Instructions appearing to be from the Company and Authorized Persons and will not be liable for any actions taken upon the Instructions of the Company or such Authorized Person. In the event of incomplete or conflicting Instructions, Newport Group shall have the right to refuse to comply with such Instruction until it receives complete Instructions or written evidence that the conflict has been resolved to its satisfaction. Newport Group will not be liable for any errors or omissions made as a result of conflicting, incomplete or incorrect information, documents or Instructions received from the Company.
- 6.2 **Errors and Corrections.** The Company shall promptly notify Newport Group of any errors or omissions in the information, documents or Instructions provided by the Company or participant. In the event of any such error, Newport Group shall work with the Company to resolve the error or omission and make such adjustments as may be necessary or appropriate to correct such error or omission; *provided, however*, that in no event will Newport Group be liable for any damages arising or resulting from such error or for the cost of correcting such errors. Newport Group may charge a reasonable fee, not to exceed \$125 per hour, for correcting errors in information, documents or Instructions provided by the Company.

7. CONFIDENTIALITY

- 7.1 **Confidentiality Obligation.** Each party (in such capacity the “**Receiving Party**”) shall keep the Confidential Information (as defined below) of the other party (in such capacity, the “**Disclosing Party**”) confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party shall have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under each Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party shall not use, disclose or distribute to any person, firm or entity any Confidential Information and shall not permit any person, firm or entity to use, disclose or distribute any Confidential Information; *provided* that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein. Except in connection with the purposes identified above, the Receiving Party shall not copy or otherwise reproduce, or permit to be copied or otherwise reproduced, all or any part of Confidential Information without the prior written consent of the Disclosing Party.
- 7.2 **Confidential Information.** As used in each Agreement, “**Confidential Information**” means (a) information and reports provided or made available to Newport Group by the Company or its Affiliates (or any employee, agent or representative thereof) in connection with Newport Group’s performance of the Services; (b) Personal Information; (c) the terms and conditions of each Agreement; (d) information designated by the Disclosing Party as confidential; (e) information regarding past, present or future business and business activities, financial or technical information; products, services, research and development; processes and techniques; designs; financial planning practices; investment methodologies; and marketing plans; and (f) information and material which, by its nature, should reasonably be construed to be proprietary or confidential.
- 7.3 **Exceptions.** The term “**Confidential Information**” does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to each Agreement. The exclusions in this Section shall not apply to Personal Information or otherwise limit Newport Group’s obligations with respect thereto. Despite the obligations of Section 7.1, the Receiving Party may disclose the Confidential Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed by the Receiving Party by Applicable Law or pursuant to an order of any court or administrative body; *provided, that*, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by Applicable Law), shall cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action, and shall not make disclosure pursuant thereto until the Disclosing Party has had a reasonable opportunity to resist such disclosure, unless the Receiving Party is ordered otherwise.
- 7.4 **Ownership.** All Confidential Information shall be and remain the sole and exclusive property of the Disclosing Party, its Affiliates, or their respective employees, suppliers, or customers, as the case may be. Except as otherwise set forth in each Agreement, neither party acquires any intellectual property

rights, including any rights to create derivative works of any Confidential Information, under each Agreement, except the limited right to use such Confidential Information in accordance with each Agreement.

- 7.5 **Return of Confidential Information.** Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; *provided, however*, that the Receiving Party is entitled to retain copies of such Confidential Information as it is required to retain pursuant to Applicable Law and that are electronically stored or archived in the ordinary course of business.
- 7.6 **Injunctive Relief.** The parties acknowledge and agree that any breach or threatened breach of Section 7.1 may cause the aggrieved party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved party shall be entitled, in addition to any other remedies available at law or in equity, to immediate injunctive relief without requiring a cure period and without the necessity of posting a bond.

8. COMPANY PERSONAL INFORMATION; SECURITY

- 8.1 **Company Personal Information.** In addition to the confidentiality obligations under Article 7, Newport Group will protect all Company Personal Information in accordance with requirements of Applicable Law.
- 8.2 **System Security.** Newport Group represents and warrants that its systems used in storing Company Confidential Information shall at all times during the term of an Agreement comply with the security requirements described in Newport Group, Inc.'s IT Security and Governance Policy (available upon request). Without limiting any other provision of an Agreement, Newport Group shall have a review of its security system performed annually by an independent third party.
- 8.3 **Unauthorized Disclosure.** In the event Newport Group discovers or is notified of an unauthorized disclosure or release of, or access to, the Company Personal Information to or by any person obtaining or reasonably believed to have obtained such Company Data, or access to such Company Personal Information, from or through Newport Group or any of its agents (each, an "**Unauthorized Disclosure**"), Newport Group shall comply with all requirements of Applicable Law relating to an Unauthorized Disclosure, including any notification requirements. Newport Group agrees that, except as required by Applicable Law, it shall not inform any Plan participant or beneficiary or other affected person of any such Unauthorized Disclosure without the Company's prior written consent.

9. INTELLECTUAL PROPERTY

- 9.1 **License.** Newport Group grants a limited, non-exclusive, non-transferable, worldwide license to the Company to access and use Newport Group's websites, technology, databases, copyrighted material and other intellectual property utilized in connection with Newport Group's delivery of Services. The participants and beneficiaries in any Plans are granted a limited, non-exclusive, non-transferable, worldwide license to access and use the participant websites provided by Newport Group under an Agreement. This license is limited to the purposes set forth in each Agreement and may not be used by the Company, participant or beneficiary for any other purpose.
- 9.2 **Newport Group as Owner.** Newport Group represents and warrants to the Company that Newport Group is the sole owner of Newport Group intellectual property, that Newport Group has the legal right to license its intellectual property, and that such intellectual property does not infringe upon the

intellectual property rights of any third party. The Company, its employees, Plan participants and beneficiaries shall have no rights in such intellectual property other than the limited, non-exclusive and non-transferable license granted in Section 9.1.

- 9.3 **Use of Names.** Neither party may use the name, trade name, service marks, trademarks, trade dress or logos of the other party or its Affiliates in marketing materials, publicity releases, advertising or any similar activity without such other party's prior written consent.

10. INSURANCE, AUDIT

- 10.1 **Insurance.** Newport Group agrees to maintain the insurance coverages as set forth in **Exhibit B**.

- 10.2 **Business Continuation.** Newport Group hereby represents, warrants and covenants that it (a) has and shall maintain a disaster recovery and business continuation plan that is reasonably designed to minimize disruption in the event of a business interruption affecting the Services or as otherwise required pursuant to a Statement of Work; (b) shall test the operability of such plan at least once every 12 months and revise such plan as necessary to ensure continued operability; (c) shall activate such plan upon the occurrence of any event materially affecting timely receipt of the Services; (d) shall notify the Company as soon as practicable following the occurrence of a business interruption affecting the Services; and (e) shall use commercially reasonable efforts to reinstate the Services as soon as practicable following a business interruption.

- 10.3 **SOC Report.** Each year during the term of this MSA, Newport Group will cause to be conducted an audit pursuant to Statement on Standards for Attestation Engagements No. 16 (SSAE 16) or any replacement or successor audit standard or process and produce a Service Organization Control Report I Type 2 ("**SOC Report**"). The SOC Report shall be made available to the Company upon request. The scope of the SOC Report will include an examination of the Services provided by Newport Group and will include a review of the systems and operations of Newport Group applicable to the Services and Newport Group's internal controls as they relate to the Services.

- 10.4 **Employee Screening and Training.** Newport Group shall, to the extent permitted by Applicable Law, perform the following background screenings on any employee that has access to Company Personal Information: (a) validation of educational experience and proof of license(s), to the extent applicable; (b) validation of employment history; (c) validation of the employee's social security number; (d) screening against the Office of Foreign Assets Control list; (e) screening for any job-related felony conviction, felony charge or conviction, misdemeanor conviction relating to a crime of dishonesty or crimes involving investments or an investment-related business, fraud, theft, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses; (f) review of credit history.

Newport Group shall require all employees with access to Confidential Information to maintain the confidentiality of such information, consistent with the obligations of Newport Group under Article 7 hereunder and complete privacy and data protection training on a periodic basis, no less frequently than annually.

11. TERM AND TERMINATION

- 11.1 **Term.** Each Agreement is effective as of the effective date set forth in the applicable Statement of Work and terminates on the third anniversary thereof. This Agreement will automatically renew for successive two (2) year terms unless either party notifies the other of its intention not to renew, no later than one hundred twenty (120) days prior to the end of the current term. Notwithstanding the foregoing, an Agreement may terminate at an earlier date as provided in the applicable Statement of

Work or under the provisions of Section 11.2. This MSA terminates upon thirty (30) days' advance notice from one party to the other after all Statements of Work have terminated.

- 11.2 **Termination for Cause.** Either party may terminate an Agreement for cause (a) upon a material breach by a party, which breach remains uncured more than sixty (60) days after written notice thereof is given to the breaching party; or (b) immediately, upon written notice, if any payment due hereunder has not been disputed and remains outstanding sixty (60) or more days after the due date.
- 11.3 **Effects of Termination.** In the event of termination of an Agreement for any reason, the Company agrees to promptly pay or cause to be paid all outstanding fees and expenses due to Newport Group and Newport Group will return any unearned fees to the Company or, if applicable, the Plan trust, as directed by the Plan fiduciary. Fees paid in advance will be prorated through the effective date of termination based on a fraction, the numerator of which is the number of days elapsed counting the termination date, and the denominator of which is the number of days in the billing period. The denominator is: (a) for monthly billing periods, 30 days; (b) for quarterly billing periods, 90 days; (c) for annual billing periods, 365 days; and (d) for partial billing periods, the number of days in such partial period.
- 11.4 **Transition Services.** In addition to transition assistance provided for under a Statement of Work, Newport Group shall provide such reasonable assistance and information as the Company may reasonably request to ensure the orderly transition of the Services to another service provider, if applicable, which shall include transitioning Plan records and data in a mutually acceptable file format to any successor provider; *provided, however*, that Newport Group shall be reasonably compensated for its transition services in accordance Newport Group's then current Fee Schedule. The Company understands that it is responsible for all charges, debit items or other transactions initiated or authorized by the Company or an Authorized Person, whether arising before or after termination.
- 11.5 **Survival.** The provisions of Article 5 (Compensation), Article 7 (Confidentiality), Article 12 (Indemnification; Limitations on Liability) and Article 13 (General Terms, except Sections 13.1 and 13.2) survive termination.

12. INDEMNITY; LIMITATIONS ON LIABILITY

12.1 Indemnification.

- (a) Newport Group shall indemnify, defend and hold harmless the Plan for, from and against Losses to which the Plan may become subject to the extent such Losses were the result of Newport Group's breach of an Agreement.
- (b) The Company and its successors shall indemnify, defend and hold harmless Newport Group and its Affiliates and each of their respective directors, officers, employees and agents (the "**Newport Group Parties**") for, from and against any Losses, including but not limited to Losses arising in connection with a regulatory investigation or audit to which any Newport Group Parties may become subject, (i) arising in any manner out of or in connection with the performance of Newport Group's obligations under an Agreement; (ii) by reason of any acts taken in good faith in accordance with Instructions, or acts omitted in good faith due to absence of or conflicting Instructions required pursuant to an Agreement from the Company; and (iii) arising out of the actions taken by any other prior, current or successor service provider (other than the Newport Group Parties), except to the extent such Losses were the result of Newport Group's breach of an Agreement.

12.2 **Indemnification Procedure.** A party seeking indemnification under Article 12 (the “**Indemnified Party**”) shall promptly notify the indemnifying party (the “**Indemnifying Party**”) of any claim for indemnification and allow the Indemnifying Party to control the defense of such claim; *provided, however,* that the failure to provide timely notice will not relieve the Indemnifying Party from any liability hereunder or otherwise unless such failure materially prejudices the Indemnifying Party’s rights. The Indemnifying Party may not settle any claim (a) that involves a remedy other than the payment of money by the Indemnifying Party without the Indemnified Party’s prior written consent; and (b) no such compromise or settlement is hereby authorized unless the Indemnified Party obtains a complete release of liability under such compromise or settlement. In the event the Indemnifying Party fails to promptly assume the defense of the claim or to promptly and reasonably conduct the defense, the Indemnified Party shall have the right to control the defense of the claim, at the sole cost and expense of the Indemnifying Party.

12.3 **LIMITATIONS ON LIABILITY.** NOTWITHSTANDING ANY OTHER PROVISION OF AN AGREEMENT, IN NO EVENT SHALL A PARTY (INCLUDING, IN EACH CASE, THEIR RESPECTIVE AFFILIATES AND AGENTS) BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF GOODWILL OR BUSINESS REPUTATION, BUSINESS INTERRUPTION, LOSS OF DATA, OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF OR CONNECTED IN ANY WAY WITH AN AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE NATURE OF THE CLAIM ASSERTED. THE PRECEDING LIMITATIONS SHALL NOT APPLY TO LOSSES RELATING TO A VIOLATION OF THE CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 7.

13. GENERAL TERMS

13.1 **Use of Third Parties.** Except as may otherwise be provided in a Statement of Work, Newport Group may retain third party vendors (“subcontractors”) to assist Newport Group in the performance of its obligations; *provided, however,* that, to the extent such subcontractor has access to Confidential Information or Personal Information, such subcontractor shall have agreed in writing to adhere to confidentiality and data and security obligations no less restrictive than those set forth in this MSA. The use of subcontractors shall not affect Newport Group’s responsibility for its representations, warranties, covenants or undertakings under an Agreement, and at all times Newport Group shall remain responsible for the performance of the Services.

13.2 **Force Majeure.** Neither Newport Group nor the Company will be liable for any failure or delay in performance under an Agreement, including any loss or expense resulting in either party’s failure to fulfill, or delay in fulfilling, its obligations under such Agreement, where such failure or delay is a result of a cause beyond the reasonable control of the affected party, including, without limitation: strikes, lockouts or other acts of workmen; fire, flood, earthquake, element of nature or acts of God; governmental restrictions or court order; war, riot, civil disorders, rebellions or revolutions; public utility, telephonic, electrical or network failure; accidents; acts of terrorism; third party non-performance (except for non-performance by a party’s employees, subcontractors, agents, representatives and/or Affiliates); or unusual trading activity or disruption of trading on any exchange; or any other event that would constitute a *force majeure* (a “**Force Majeure Event**”). The affected party shall promptly notify the other party of the occurrence of the Force Majeure Event. The occurrence of the Force Majeure Event does not excuse, limit, or otherwise affect Newport Group’s obligation to provide either normal recovery procedures or any other disaster recovery services described in an Agreement, except to the extent that such procedures or services are directly affected by such Force Majeure Event.

- 13.3 **Status as Independent Contractors.** Nothing in an Agreement shall cause or be deemed to cause any party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of any other party hereto. The sole relationship of the parties hereto is that of independent contractor.
- 13.4 **Third Party Beneficiaries.** Agreements shall not be construed as granting any rights or benefits to third parties, including, for example, Plan participants and their beneficiaries, employees, independent contractors, consultants or other agents of the parties.
- 13.5 **Counterparts.** This MSA and each Statement of Work may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument. The parties hereto agree that each Agreement and other documents may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 13.6 **Amendments and Waivers.** Except as otherwise expressly provided under an Agreement, any provision of such Agreement may be amended or waived only if such amendment or waiver is in writing and is signed, in the case of the amendment, by each party to such Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.
- 13.7 **Conflict of Terms.** The provisions of this MSA, Statement(s) of Work and the schedules thereto, are intended to be read together as a single contract, applying general rules of contract interpretation. The parties understand that the Statement of Work is intended to govern only the Services and obligations of the parties specifically described therein and, should therefore be construed, where possible, under the rule of contract interpretation giving deference to more specific contract terms. If, after the application of general rules of contract interpretation and Applicable Law, a conflict exists between the MSA and a Statement of Work, unless the Statement of Work (or applicable schedule) expressly provides that it is intended to override the provisions of the MSA, the provisions of the MSA shall control.
- 13.8 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport Group's records, provided by the Company for such purposes; and (b) to Newport Group: Newport Group, Inc., 1350 Treat Boulevard., Suite 300, Walnut Creek, California 94597-7959, Attention: Chief Operating Officer, Facsimile Number: 925-328-4491, or such other address as Newport Group may provide from time to time, with a copy to Newport Group: Newport Group, Inc., 1350 Treat Boulevard., Suite 300, Walnut Creek, California 94597-7959, Attention: Legal Department, Facsimile Number: 925-328-4467.
- 13.9 **Severability.** If any term or provision of an Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of such Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of such Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of such Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of such Agreement shall remain in full force and effect.

13.10 **Construction.** Headings in an Agreement are inserted solely for convenience of reference and will neither constitute a part of such Agreement nor affect its meaning, construction or intent. Whenever used in an Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. Each Agreement has been negotiated and prepared by the parties and their respective attorneys and, should any provision of an Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one party.

13.11 **Successors and Assigns.** Each Agreement is binding upon the successors and assigns of the parties hereto. Either party may assign an Agreement to an Affiliate or a successor in interest upon written notice to the other party.

13.12 **Entire Agreement.** Each Agreement constitutes the entire agreement between Newport Group and the Company related to the subject matter thereof and supersedes all prior agreements, proposals or representations, whether written or oral, between the parties relating to the subject matter thereof.

13.13 **Choice of Law.** Each Agreement shall be governed by the laws of Delaware, without regard to its principles of conflicts of law, except to the extent such laws are preempted by federal law.

IN WITNESS WHEREOF, the parties hereto have caused this MSA to be executed by their duly authorized officers or representatives as of the date first set forth above.

City of Selma

Newport Group, Inc.

By: _____

By:  _____

Printed Name: _____

Printed Name: Laura Ramanis

Title: _____

Title: Chief Operating Officer

Date: _____

Exhibit B

Insurance

Newport Group shall maintain insurance coverages with carriers with an A.M. Best Insurance Rating of A-:VIII or better and licensed to do business in the states where Newport Group's Services are performed with limits of at least the following:

Commercial General Liability	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Umbrella Liability	Each Occurrence: \$10,000,000 Aggregate: \$10,000,000
Automobile Liability	\$1,000,000
Workers Compensation	\$1,000,000
E&O (includes Cyber Liability)	\$10,000,000

Upon request, Newport Group shall provide evidence of the above coverage to the Company.

Statement of Work No.[1]

457(b) Governmental Recordkeeping and Administration Services

This **Statement of Work No. [1]** is entered into as of [REDACTED] (“**Effective Date**”), between **City of Selma** (“**Company**”) and **Newport Group, Inc.** (“**Newport Group**”). The terms of the Master Services Agreement (“**MSA**”) between Company and Newport Group, dated as of the same date, are incorporated by reference, except as modified below. Capitalized terms not defined in this Statement of Work have the meaning given in the MSA.

RECITALS

Company, as the sponsor of the **City of Selma 457(b) Plan** (the “**Plan**”) hereby retains Newport Group to provide recordkeeping and administration services for the Plan (“**Services**”) in accordance with the terms and conditions set forth herein.

In consideration of their mutual undertakings set forth below, the parties agree as follows:

1. SERVICES TO BE PERFORMED

Newport Group agrees to perform the following Services for the duration of this Statement of Work.

1.1 Conversion and Implementation Services

- (a) Where applicable, Newport Group will coordinate the transfer of Plan data and documentation from the prior record keeper and administrator to Newport Group’s recordkeeping and administrative platform.
- (b) Newport Group will coordinate the transfer of trust assets from the prior trustee/custodian to the successor trustee/custodian, as authorized by Company.
- (c) Newport Group will prepare blackout notices for Company to deliver to participants.
- (d) Newport Group will provide Company with appropriate payroll processing training.

All information and documentation will be delivered to Newport Group electronically in a form acceptable to it. Trading will be made available as soon as administratively feasible.

Newport Group will accept historical and other Plan information received as correct and complete, and will not audit such information for accuracy, compliance with government requirements or consistency. Newport Group is not responsible for completion of any testing for any Plan years ending prior to the Effective Date of this Statement of Work.

1.2 Plan Document Services

- (a) If Company elects to use a plan document supplied by Newport Group, Newport Group will prepare drafts of the plan document and summary plan description for review and approval by Company during the conversion process.
- (b) Newport Group will, for an additional fee, provide drafts of discretionary amendments and related summaries of material modifications as requested by an Authorized Person for review and approval by Company.
- (c) If Company is using a document supplied by Newport Group, Newport Group will notify Company of required amendments to such document.
- (d) Newport Group will assist Company in reviewing Plan provisions and may propose changes in Plan design based on Company's objectives as communicated to Newport Group.

1.3 Communication/Enrollment Services

- (a) Newport Group will prepare and provide to Company drafts of participant automatic enrollment notices, as applicable.
- (b) Upon request and for an additional fee, Newport Group will prepare and provide to Company drafts of such other participant communications as may be required pursuant to Applicable Law.
- (c) Newport Group will provide a recurring report for Company to monitor newly eligible employees for future eligibility periods. Newport Group will provide enrollment information and disclosures based on Plan provisions. Newport Group will determine default deferral elections as applicable.

Company is responsible for distributing any such notices and communication materials to participants and other parties unless it requests Newport Group to distribute such notices and communications on its behalf for an additional fee. Company will review and approve all employee communications and enrollment materials. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such participant information as it may require in order to perform this service.

Newport Group prepares participant communication material and reports based on information that is reasonably available in the marketplace and/or provided by Company and other service providers. Where available, Newport Group will deliver such material electronically.

1.4 Administration Services

- (a) **Compliance Services.** On an annual basis, Newport Group will review contributions to the Plan to ensure compliance with the deferred compensation limits imposed by Code Sections 457(b)(2) and (3).

- (b) **Missing Persons.** Upon request, and for an additional fee, Newport Group will assist Company in locating missing participants and take action as directed by Company or an Authorized Person with respect to benefits for missing participants.
- (c) **Distribution Processing.** Newport Group will process distributions in accordance with the Plan document and instructions from an Authorized Person, which may include pre-approval of specific types of distributions meeting agreed criteria. Newport Group will provide instructions to the Plan trustee or custodian, as applicable, regarding tax withholding and reporting. Newport Group is not responsible for remitting taxes withheld or filing tax forms. Company is responsible for timely reporting of separations of service and is responsible for non-compliance if such reporting is not provided. Company is responsible for maintaining current participant addresses.

Distributions will be processed (requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, an in-kind distribution is being requested, or Newport Group is otherwise not able to process the distribution via the Website. Where paperless distributions are not available, Newport Group will provide the appropriate documentation to enable the distribution process.

Complete distribution requests received by 3 p.m. ET will be processed and the funds will be issued to have the payment mailed within three Business Days, provided that the trades have settled and funds have been received. Newport Group will not be responsible for processing any distribution request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any distribution.

Non-periodic distributions will be made by check; periodic distributions may be made by ACH or check, as requested by the participant. All direct rollovers will be made by check and mailed to the participant for delivery to the rollover institution.

Newport Group will process stale (returned or unclaimed) checks in accordance with its standard procedures regarding stale dated and returned checks. If Company directs that a stop payment be placed on a check, Company will instruct Newport either to credit the proceeds back to the Participant's account or reissue the check or ACH or wire the proceeds.

- (i) **Optional Unforeseeable Emergency Withdrawal Service.** If the Plan document allows participants to take unforeseeable emergency withdrawals, Newport Group will, upon request and for an additional fee, assist Company in determining eligibility for unforeseeable emergency withdrawals and approving or denying withdrawal requests. If Company does not request such assistance, Newport Group's Services will be limited to calculating the portion of the participant's account eligible for unforeseeable emergency withdrawal.
- (ii) **Optional Domestic Relations Order Services.** At the election of Company, and for an additional fee, Newport Group will assist Company in determining whether a domestic relations order filed with the Plan is sufficient pursuant to the Plan's provisions.

- (d) **Loan Processing.** Newport Group will process loans in accordance with the Plan document and instructions from an Authorized Person, which may include pre-approval of specific types of loans meeting agreed criteria. Loans will be processed (requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, the loan is a residential loan, or Newport Group is otherwise not able to process the loan via the Website. Where paperless loans are not available, Newport Group will provide the appropriate documentation to enable the loan process.

Complete loan requests received by 3 p.m. ET will be processed and the funds will be issued to have the loan proceeds mailed within three Business Days, provided that the trades have settled and funds have been received. Newport Group will not be responsible for processing any loan request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any loan.

Following the processing of a loan, Newport Group will post necessary information to the Website to enable Company to commence loan repayments through payroll deductions. Company is responsible for initiating payroll deductions for such loans. Newport Group will issue a quarterly report to notify Company upon the occurrence of a late payment and of loan defaults. Loans will be offset or treated as a deemed distribution solely at the direction of Company.

- (e) **Calculation of Annual Employer Contributions.** Newport Group will calculate annual employer contributions, including nonelective and annual matching contributions (including any true up matching contributions). Newport Group will identify employees eligible for an allocation based on payroll information provided by Company, apply the allocation formula based on the Plan document, provide the calculation to Company for review and approval, and allocate the contribution to eligible employees.

Company is responsible for calculating and contributing matching contributions contributed on a payroll by payroll basis.

- (f) **Vesting Services.** Newport Group will determine each participant's vested interest in his Plan account, based on data provided by Company with each payroll feed, unless Company determines and provides vesting information to Newport Group.

- (g) **Deferral Election Changes.** Newport Group will receive participant deferral election changes via internet or call center and provide deferral election files to Company for payroll entry.

- (h) **Maintenance of Data.** Newport Group will maintain the following forms and data in electronic format:

- (i) distribution requests and other transaction requests transmitted by participant;
- (ii) beneficiary designations, loan requests, investment direction, deferral elections and other electronic participant transactions; and payroll and census feeds.

1.5 Recordkeeping Services

(a) **Participant Investment Accounts.** Newport Group will establish and maintain records for each participant's account under the Plan (including appropriate sub-accounts reflecting investment options and contribution classifications). Newport Group will facilitate the investment of contributions and other receipts and post transactions and investment gains and losses to participant accounts.

(i) **Investment Purchases, Sales or Exchanges.** Newport Group will instruct the Plan custodian to buy, sell or exchange securities or other investments in accordance with, and upon receipt of, instructions electronically transmitted via the Website, VRU or otherwise provided to Newport Group in writing by Company, an Authorized Person or a participant.

On each Business Day, Newport Group will transmit instructions to the trustee/custodian for investment exchanges, transfers, and changes in investment directions for contributions and existing account balances which are submitted on the recordkeeping system before 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day). Directions received on or after 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day) will generally be processed the next Business Day.

Newport Group is not responsible for directions that have been properly processed and timely transmitted to the trustee/custodian. Newport Group may specify the manner in which investment directions will be provided to Newport Group, including, without limitation, through Newport Group's internet interface or through Newport Group's VRU system, and Newport Group will not be responsible for investment directions provided through other means. Newport Group will have no authority or responsibility for executing the purchase or sale of securities or other assets held in the Plan trust.

(ii) **Changes in Investment Options or Related Systems.** The addition, change or deletion of funds offered under the Plan (including fund swaps/changes, fund line-up changes, model changes/maintenance and rebalances, and corporate actions services), or changes affecting the systems through which existing or new funds are offered, will be processed by Newport Group based on information received from Company. Newport Group will prepare all necessary fund addition, change or deletion forms and any applicable blackout notices and/or fund disclosures. Changes must be communicated to Newport Group upon at least ninety (90) Business Days' advance written notice, unless otherwise agreed to by Newport.

Provided advance written notice has been provided, the addition, change or deletion of funds offered under the Plan will become effective and available for trading by the end of the 5th Business Day after Newport Group's receipt of all necessary information and documentation and expiration of all applicable regulatory and Newport or fund-mandated notice periods. In the event that a fund is not currently traded by Newport Group or the Plan's trustee/custodian, and for changes affecting systems through which existing or new funds are offered, the fund or change will be made available as soon as administratively feasible.

Company is responsible for, and Newport Group will have no obligation for, reviewing all requirements and restrictions imposed by the mutual fund and for verifying that Company will meet any such requirements or restrictions.

Newport Group will make Plan-level in-kind transfers if directed by Company.

- (b) Contributions and Loan Repayments. Newport Group will process participant and Company contributions and loan repayments and credit such amounts to participant investment accounts.

On a daily basis, Newport Group will accept and process payroll files that reconcile to the payroll deposit received for investment by the Plan's trustee or custodian, via the Website. Payroll and deposit information must be provided in the format and field order required by Newport Group. Subject to any requirements imposed by the Plan's trustee or custodian, contributions may be made by ACH pull from Company's designated account, or by wire.

ACH pull deposit requests received in good order by the Plan's trustee or custodian by 1:30 p.m. ET on a Business Day will be processed by Newport Group that day. ACH pull deposit requests received in good order by the Plan's trustee or custodian after 1:30 p.m. ET will be processed by Newport Group the next Business Day.

Contributions that reconcile to deposits will be credited to individual participant accounts each Business Day, typically on the same Business Day according to then current procedures. Contributions will not be processed until Newport Group has received participant allocation information. Contributions for participants for whom no investment direction has been provided to Newport Group will be allocated to the Plan's default investment, as selected by Company.

Company is responsible for ensuring that participant contribution/deferral elections and loan repayments are properly implemented through Company's payroll system and that funds (including participant elective deferrals) are remitted to the Plan trust when required by Applicable Law.

- (c) Daily Valuation. Newport Group will calculate the value of each participant's account based on the prior Business Day's values as reported by the Plan's custodian.
- (d) Participant Reporting. Newport Group will prepare pension benefit statements each calendar quarter for participants, beneficiaries and alternate payees with an account balance during such quarter.
- (e) Company Reports. Upon request by Company, and for an additional fee, Newport Group will prepare customized reports as agreed to by Newport Group in its sole discretion.

- 1.6 Participant and Company Support.** Newport Group will maintain and provide a toll-free automated telephone answering system ("VRU") that participants can use to obtain general Plan and account information and to request changes to investment and deferral elections. Newport Group will maintain staff to support participant inquiries in English and Spanish each Business Day between the hours of 8 a.m. to 8 p.m. ET. Other languages may be available

upon request. Newport Group will also maintain a Website that Company and participants can use to access Plan and account information, request distributions and loans when available, make changes to investment and contribution elections when available, and provide Instructions as needed.

Access to and use of the Website is subject to the terms and conditions of such Website, and each user thereof must comply with all user enrollment and security procedures established by Newport Group (or its agents) from time to time.

To confirm identity of an authorized VRU or Website user, Newport Group requires users to provide Newport Group issued credentials. Newport Group will not be liable for any Losses incurred by Company, participant or other party for responding to an inquiry or processing instructions from a user of the VRU or Website that has confirmed identity using Newport Group issued credentials. A user of the Website is responsible for verifying the accuracy and receipt of all data or information that such user transmits via the Website. Company shall advise its users to promptly notify Company of any errors or inaccuracies in data or information on the Website.

2. COMPANY'S RESPONSIBILITIES

Company agrees to do the following:

2.1 Implementation.

- (a) **Plan Documents.** Company agrees to provide Newport Group with copies of current executed Plan and trust documents including all amendments thereto. Company will notify Newport Group in advance of any changes to the interpretation or administration of the Plan and its related trust, and to provide notification to Newport Group of any substitution of the Plan's trustee.

Company agrees to provide Newport Group written notice of any amendments to the Plan at least 30 days prior to the effective date thereof, or such longer period as may be required by Newport Group. Newport Group will notify Company of any restrictions on Newport Group's ability to administer the Plan as a result of such amendments and shall further notify Company of any changes to the Services and fees as a result of such amendments.

Newport Group is not responsible for maintaining the tax-qualified status of any plan documentation except as specifically provided in this Statement of Work.

- (b) **Implementation Data.** Company will provide to Newport Group the information required to implement the Plan or convert the Plan to Newport Group's administrative systems in an electronic format acceptable to Newport Group. Such information will include eligible employee and participant census data, account data, and any related implementation or conversion data for the participant population as may be required by Newport Group. Newport Group shall have no duty to inquire as to the accuracy of the information provided by Company and is entitled to rely on such information in carrying out its duties under this Statement of Work.

- (c) **Ticker Symbols** Company will provide Newport Group with applicable identifying symbols and numbers (e.g., ticker symbols and CUSIP numbers) of the securities to be initially held in the Plan's trust account no fewer than twenty (20) Business Days prior to the desired account opening date.

2.2 Payroll Administration. Company hereby acknowledges that it is responsible for the implementation and administration of participant deferrals, contributions and loan repayments through its payroll system, including, without limitation, compliance with all federal, state and local employment (income and FICA, as applicable) tax withholding and reporting requirements with respect to such amounts. Company agrees to provide Newport Group, in an electronic format acceptable to Newport Group, with the amount of participant deferrals, contributions and loan repayments for each payroll period, and with the amounts of any pay period allocations of Company contributions among participants for such payroll period, in order to allow Newport Group to update participant accounts.

2.3 Reports. Company agrees to promptly review all reports prepared and delivered to Company by Newport Group. If Company shall not, within sixty (60) days after the date of any such report, notify Newport Group in writing of any inaccuracies or errors in the report, such report shall be deemed complete, accurate and duly approved by Company. Notwithstanding the foregoing, Newport Group will make every effort to correct any inaccuracies or errors in any report within sixty (60) days after the date Newport Group receives written notification from Company of such inaccuracies or errors.

2.4 Information and Data. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such information as it may reasonably request from time to time to perform the Services, including:

- (a) Copies of current signed Plan and trust documents and all amendments
- (b) Current Plan records
- (c) Copies of the most recent IRS correspondence regarding the Plan
- (d) Notification of an eligible employee's initial eligibility to participate in the Plan
- (e) Service history
- (f) Current signed benefit elections for participants requesting payments
- (g) Notification of any upcoming merger, acquisition, spinoff, divestiture, or other corporate transaction
- (h) Notification of any change in Authorized Persons
- (i) Prior administrative tests and reports as requested by Newport Group
- (j) Accurate population of payroll data files uploaded for each payroll cycle that contains the following information for all employees:
 - (i) Social security numbers
 - (ii) Full name
 - (iii) Birth date
 - (iv) Hire date
 - (v) Termination date
 - (vi) Rehire date

- (vii) Pay period and year to date hours worked
- (viii) Contribution amounts by source
- (ix) Loan repayments
- (x) Pay period and year to date compensation (as needed for allocation and testing purposes)
- (xi) Last known employee physical mailing addresses (not P.O. box)
- (xii) Participant Company email addresses
- (xiii) Other information as requested by Newport Group.

Company is responsible for ensuring that such information, documentation and instructions are complete and accurate and shall promptly inform Newport Group in writing of any changes to the Plan or Company that may affect Newport Group's obligations under this Statement of Work.

3. Company's Representations, Warranties and Acknowledgments

Company makes the following representations and warranties in addition to those set forth in the MSA:

- 3.1** Company (a) is an eligible employer under Code Section 457(b) and Treasury Regulation Section 1.457-2(e); (b) has the authority to act on behalf of the Plan; (c) has the authority and responsibility under the terms of the Plan to administer the assets of the Plan; and (e) has the authority under the terms of the Plan to retain Newport Group to provide the Services to the Plan.
- 3.2** Company represents that the Plan and its related trust are intended to qualify as tax-exempt under Section 457(b) and 501(a) of the Code and it will operate and administer the Plan and its related trust, and take all necessary actions and pay such expenses as needed to ensure the Plan's compliance both in form and operation with the provisions of Applicable Law.
- 3.3** Company has reviewed the terms and conditions of this Statement of Work and understands the nature of the Services to be performed by Newport Group and the fees Newport Group will charge for such Services. Based on such review, Company has determined that the fees are reasonable for the Services to be rendered.
- 3.4** Company understands and agrees that Newport Group shall have (i) no discretionary authority with respect to the investment of Plan assets or the administration of the Plan and (ii) no authority to interpret Plan documents, and that the sole duty of Newport Group in its role as third party administrator and recordkeeper is to assist Company in the performance of the Services as described herein.
- 3.5** Company acknowledges and agrees that it is responsible for the following:
 - (a) Making any discretionary decision with respect to the operation of the Plan, including, without limitation, interpretation of Plan provisions, reasonableness of fees charged to

- the Plan, evaluation of claims made by Participants for benefits under the Plan and the investment of Plan assets;
- (b) The selection and monitoring of the Plan's service providers, including accountants, actuaries, administrators, advisors, attorneys, custodians, financial advisors and/or trustees;
 - (c) Providing investment advice or investment management services;
 - (d) Ensuring that all funds required to be contributed to the Plan are contributed when required for compliance with Applicable Law; and
 - (e) Defending any legal proceeding brought by third parties against the Plan or Company or for the defense of any Plan audit by the IRS or any other government agency with respect to the Plan. Newport Group may be engaged for an additional fee to assist Company.

4. Fee Compensation

Fees for the Services are described in a schedule attached to this Statement of Work, and may include applicable Trustee or Custodial fees and applicable revenue sharing for the Plan. Should any balance be past due in excess of sixty (60) days, Company irrevocably authorizes Newport Group to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all participants in the Plan in accordance with the terms of the Plan. To the extent that any such payments are made out of Plan assets, Company acknowledges and agrees that such payments are made at Company's discretion. Company agrees to take all necessary actions and pay expenses related to maintaining the Plan as contemplated by this Statement of Work, in compliance with the Applicable Law.

5. TERM; AMENDMENT/TERMINATION

This Statement of Work is effective on the Effective Date and shall continue in effect until terminated by either party upon not less than ninety (90) days' advance written notice. Newport Group may amend this Statement of Work, including the Fee Schedule, at any time upon sixty (60) days' prior written notice to Company. In the event Company does not object to the amendment within thirty (30) days of delivery thereof, Company will be deemed to have accepted the amended Statement of Work.

In Witness Whereof, the parties have signed this **Statement of Work No. [1]** effective as of the Effective Date.

City of Selma

Newport Group, Inc.

By: _____

By:  _____

Printed Name: _____

Printed Name: Laura Ramanis

Title: _____

Title: Chief Operating Officer

Date: _____

Date: 05/30/2019

Fee Schedule

Recordkeeping and Administration¹

Participants	Per Participant
First 1-100	\$70
Next 150	\$65
Next 250	\$60
Next 250	\$55
Each Additional	\$50

Trust and Custody²

Asset Size	Breakpoints
<\$10m	5 bps
\$10m-\$25m	4 bps
\$25m+	3 bps

Annual Base Fee: ☑N/A

The Recordkeeping and Administration fees include the initial plan document, plan setup and conversion; unlimited payroll processing uploaded to plan sponsor website and processed via ACH.

Transactions

Distribution (non-periodic)	\$75
Periodic Install Payments	\$12.50 per payment
Hardship Distribution	\$150
Loan Setup (new or takeover)	\$50
Annual Loan Maintenance	\$50
Self-Directed Brokerage Account Setup (linked) ³	\$75 per account
Self-Directed Brokerage Account (linked) ³	\$200 annually per account
Calculation of Age 70 1/2 Required Minimum Distribution Amount	\$85
Qualified Domestic Relations Order ("QDRO") Validation	\$250

Annual Administration and Compliance Support Services

Non-standard Administration and Compliance Services ⁴	\$180 per hour
Enrollment Services	\$500 per day plus travel expenses
Preparation of IRS Form 5330	\$250
Form 8955 SSA	\$350
Calculation of Each Return (Failed 401(k)/401(m) Test; 402(g) Limit; 415	\$50
Plan Termination or Deconversion	\$1000

Participant Mailings and Annual Notices

Printed Participant Notices (i.e., 404(a)(5) Participant Fee Disclosure or QDIA	\$50 initial setup plus \$1 per participant per mailing
Printed Quarterly Participant Statement	\$1 each
Printed Quick Start Enrollment Guide <i>Hard Copy Full Enrollment Booklet is available at \$5 each.</i>	\$2 each
Outgoing Bank Wire or other Electronic Transfers	\$10 per transfer
Overnight delivery	\$30 per occurrence
Annual Electronic QDIA Notice provided for Plan Sponsor ⁵	\$125 per year

Document Maintenance Services

Major Sponsor-Requested Plan Amendments (name change, two or more minor Amendments, etc.)	\$500
Minor Sponsor-Requested Plan Amendments (address, trustee changes, etc.)	\$200
Consulting Services ⁶	\$250 per hour

¹Billed in advance, calculated based on participant balances on the last day of the prior quarter. Minimum per plan fee is \$3,750. Minimum fee is N/A if Base Fee is utilized. Full census required.

²Billed in advance based on asset value on the last day of the prior quarter. Additional 5 bps on total plan assets if using ETFs. Minimum per plan fee is \$750.

³In addition to SDBA setup and annual fees noted above, participant accounts will be debited for any brokerage commissions related to trades placed through SDBA. The amounts charged for transactions will be listed in the trade confirmations from the brokerage provider and will also appear on quarterly statement from broker. The broker also has a list of services and fees that are provided when an SDBA account is opened or upon request.

This Fee Schedule is hereby incorporated into and made part of the Master Services Agreement (the “MSA”) and Statement of Work for Recordkeeping and Administration Services (the “SOW”) between the Company and Newport Group, Inc. Defined terms used and not otherwise defined herein shall have the meanings set forth in the MSA and SOW.

Revenue Sharing:

As a result of the investment of assets in certain securities, Newport, its affiliates or custodians may be entitled to “revenue sharing” fees (i.e., 12b-1 fees and sub-transfer agent fees) from investment companies (such as mutual funds) or their service providers. Revenue sharing is paid in exchange for Newport’s assumption of record keeping, administrative and regulatory obligations that the funds would otherwise be responsible for had the fund shares been purchased directly by an individual. For example, Newport may be responsible for enforcing “late trading” and redemption fees under SEC rules 22c-1 and 22c-2 and providing other administrative services on behalf of the funds. Unless the parties agree otherwise, Newport will collect and pass through to a Revenue Holding Account (RHA or Plan Assets, as elected in the “Revenue and Service Fee Authorization” Section below, one hundred percent (100%) of the revenue sharing fees on a quarterly basis.

This Fee Schedule and the investment revenue schedule data provided herewith sets forth the revenue sharing Newport will receive for the Services as specified in the SOW. This Fee Schedule, and investment revenue schedule data together are intended by Newport to satisfy the fee disclosure requirements set forth in Department of Labor regulation Section 2550.408b-2(c)(1). The Company represents that the fee and compensation information specified herein was provided to the Company and that the Company had a reasonable opportunity to review and ask questions with respect to such information before entering into the SOW and MSA.

The Company has reviewed this Fee Schedule, the investment revenue schedule, the SOW and the MSA, and understands the nature and amounts of the Fees and indirect compensation disclosed therein, and has determined that Newport is receiving reasonable compensation for the Services.

Revenue and Service Fee Authorization

1. **Revenue Crediting.** Newport offers to credit revenue sharing to either a Revenue Holding Account (RHA) or to Plan Assets.

The Company must select one of the following two options:

- ☐ **Revenue Holding Account.** If the Company elects this box Newport will establish a RHA with plan custodian in the name of the Plan for the purposes of collecting revenue sharing for the Plan to be used to pay appropriate plan expenses. See **Section 2** below for default fee payment options.
- ☐ **Plan Assets.** Newport Group will credit revenue sharing to Plan Participant accounts in proportion to participant account balances for any given investment as soon as administratively feasible after the revenue has been received by plan custodian. See **Section 2** below for default fee payment options.

2. **Default Fee Payment Election.** Skip this section if the Company wants to make customized elections for payment of fees under **Section 3** below.

Please check the following box if you would like to select the default fee payment option.

- ☐ **The Company directs Newport to pay fees in the following manner as described in 2.1 and 2.2 below:**

- 2.1. All Participant-Related (Transaction) Fees will be charged directly to Plan Participant accounts.
- 2.2. Plan Level (non-Transaction) Fees will be charged in the following order: (1) from amounts available in the RHA (if RHA option is selected in **Section 1** above), and (2) from Plan assets in proportion to Plan Participant account balances.

If directed by the Company Newport may also pay fees from forfeitures currently available in the Plan (**Note:** This option is not available to Plans that do not provide for payment of expenses from forfeitures in their Plan Document.). If the Participant accounts, RHA, Plan assets or forfeitures are not sufficient to pay fees, then such fees will be paid by Plan Sponsor.

3. ☐ **Customized Fee Payment Elections.** The Company directs Newport to pay fees in the following manner:

→ **Note: Do not complete this section if the Company selects a default option under Section 2 above.**

In the following table, please indicate the Company's preference order for payment of fees by fee type and payment source (1, 2, 3, etc., or N/A). If a particular fee is to only be paid from a single source, use a 1 to make this designation under the appropriate source. If you make an election under columns (A), (B), or (C) below, you **must** make a selection under one of columns (D), (E), (F), (G) or (H). If (C) is elected, then either (F) or (G) must also be elected. If you fail to make an election under one of these options, the default will be for the remaining balance of fees to be charged to the Plan on a pro rata basis. If the Participant accounts, RHA, Plan assets or forfeitures are not sufficient to pay fees, then such fees will be paid by Plan Sponsor.

Plan Pro Rata means the fee will be allocated in proportion to Plan Participant account balances.

Plan Per Capita means the fee will be charged in an equal dollar amount to each Plan Participant with an account balance in the Plan.

Individual Participant means the Transaction Fees (i.e. distribution fees, loan fees, or other fees that result from actions taken by an individual participant), will be charged directly to the individual Plan Participant's account.

Terminated Participant means the fee will be charged in an equal dollar amount to each terminated Plan Participant with an account balance in the Plan.

	An election <u>may</u> be made under one or more of columns (A), (B), or (C) if desired.			An election <u>must</u> be made under columns (D) through (H) and may only include 1 of the following options for each fee type unless column (C) is elected. If column (C) is elected then one of columns (F) or (G) must also be chosen.				
Type Fee	(A) Forfeitures ⁷	(B) RHA ⁸	(C) Terminated Participants Only	(D) Plan Pro Rata	(E) Plan Per Capita	(F) Plan Sponsor by ACH Draft	(G) Sponsor by Invoice	(H) Individual Participant
Recordkeeping and Administration Fee ⁹								N/A
Base Fee (if applicable)			N/A					N/A
Trust and Custody Fees ¹⁰								N/A
Transaction Fees			N/A					
Administration and Compliance Support Fees ⁶			N/A		N/A			N/A
Participant Mailings and Annual Notices			N/A					N/A
Document Maintenance Fees (Plan Level fees only)	N/A	N/A	N/A	N/A	N/A			N/A
Describe any other fee payment elections using the space provided below:								

⁴May include but not limited to: calculation of multiple scenarios for annual contributions; mid-year testing; supplemental annual plan audit support; re-running of reports or annual administration or discrimination testing due to client request or data changes; reconciling assets outside of primary investment source; special benefit formula calculations; section 414(s) compensation inclusion percentage testing; section 415(c) aggregate testing of multiple DC plans; section 401(a)(4) non-discrimination testing; and other technical compliance or calculation assistance.

⁵Plans using investment models must provide investment descriptions, fees and other information required by Newport Group.

⁶May include but are not limited to: assistance with mergers, acquisitions, and spin-offs, preparation of DOL DFVCP and VFCP and IRS streamlined EPCRS filings. A separate fee may apply for other consulting projects and will be quoted under separate engagement.

⁷Plan Document must allow for payment of fees from forfeitures.

⁸Plan Sponsor must have elected to establish a RHA.

⁹If the annual minimum Plan Participant Fee applies, the minimum fee adjustment will be charged in accordance with the elections made within this table for Recordkeeping and Administration Fees.

¹⁰If the annual minimum for Trust and Custody Fees applies, the minimum fee will be charged in accordance with the elections made within this table for Trust and Custody Fees.

Other Terms and Conditions

1. **Errors.** If an error by the Company, or Authorized Party results in additional labor or services by Newport to correct or reflect correction of the error, the Company agrees to pay Newport's normal and reasonable hourly rate for such time labor or services and any expenses incurred by Newport.
2. **Out of Pocket Expenses.** In addition to the fees set forth herein, the Company is responsible for payment of any out-of-pocket expenses Newport may incur on the Company's behalf, including but not limited to, messenger service fees, overnight delivery fees, filing fees and travel expenses.
3. **Third Party Service Provider Fees.** The Company acknowledges and agrees it is solely responsible for assessing and concluding that remuneration paid to any and all third party service providers is reasonable under ERISA and other applicable laws, rules and regulations, and that the use of Plan assets to pay such providers is consistent with all applicable laws. The Company hereby acknowledges that it has been advised to consult with its legal counsel regarding this direction.
4. **Legal Expenses.** In the event Newport is requested or authorized by the Company, or are required by government regulation, subpoena, or other legal process to produce our documents or our personnel as witnesses in relation to the Plan, the Company agrees to pay Newport's normal and reasonable hourly rates and expenses whether or not Newport is named as a party, and whether or not Newport is still engaged to perform services for the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Plan Fee Schedule to be executed by their duly authorized officers or representatives as of the date specified below.

Company: City of Selma _____

By: _____

Signature: _____

Title: Plan Administrator

Name: _____

Date: _____

Signature: _____

Title: _____

Name: _____

Date: _____

Newport

(NOTE: No handwritten changes will be accepted by Newport)

By:

Signature:  _____

Title: Chief Operating Officer

Name: Laura Ramanis

Date: 05/30/2019

Investment Revenue Schedule

City of Selma 457(b) Plan

Effective as of May 30, 2019

I. Fund Revenue and Expense Schedule

The following table provides information regarding revenue sharing and expenses from certain investment options that are available to participants in the City of Selma 457(b) Plan (the "Plan"). Information provided in the table includes the percentage of plan assets that Newport Group, Inc. ("Newport"), its subsidiaries or affiliates may receive from each investment in which participants of the Plan may invest, and the expense ratio for each fund.

The Plan uses investment Model Portfolios which comprise various underlying investments. The information included in this document reflects the underlying investments within the Model Portfolios. Your investment advisor has provided the Plan with information detailing the composition of each model

Plan Investment Fund Revenue and Expenses

<u>Investment Fund Name</u>	<u>Ticker Symbol or Fund ID</u>	<u>Plan Credits</u> ¹ <u>(Included in Exp Ratio)</u>	<u>Fund Expense Ratio</u> ² <u>(Includes Amts in Prior Column)</u>
Aberdeen Global High Income A	BJBHX	0.40%	1.00%
AllianzGI NFJ Mid-Cap Value A	PQNAX	0.50%	0.99%
Amg Managers Brandywine Blue I	BLUEX	0.10%	1.16%
Ariel Fund Investor	ARGFX	0.40%	1.01%
Calamos Convertible A	CCVIX	0.40%	1.17%
Calamos Growth A	CVGRX	0.40%	1.29%
Dodge & Cox Balanced	DODBX	0.00%	0.53%
Dodge & Cox International Stock	DODFX	0.00%	0.63%
Fairholme	FAIRX	0.00%	1.00%
Fidelity Advisor Freedom® 2010 I	FCIFX	0.25%	0.53%
Fidelity Advisor Freedom® 2015 I	FFVIX	0.25%	0.57%
Fidelity Advisor Freedom® 2020 I	FDIFX	0.25%	0.61%
Fidelity Advisor Freedom® 2025 I	FITWX	0.25%	0.66%
Fidelity Advisor Freedom® 2030 I	FEFIX	0.25%	0.70%
Fidelity Advisor Freedom® 2035 I	FITHX	0.25%	0.74%
Fidelity Advisor Freedom® Income I	FIAFX	0.25%	0.47%
Fidelity Advisor® Gold A	FGDAX	0.50%	1.19%
Fidelity Brokerageflex Account	FIDSDBA	0.00%	Varies
Fidelity® Leveraged Company Stock	FLVCX	0.25%	0.78%
Fidelity® Select Brokerage & Invmt Mgmt	FSLBX	0.25%	0.78%
Fidelity® Select Consumer Staples Port	FDFAX	0.25%	0.77%

Fidelity® Select Leisure	FDLSX	0.25%	0.76%
Fidelity® Select Medical Tech And Devcs	FSMEX	0.25%	0.73%
Fidelity® Select Telecommunications Port	FSTCX	0.25%	0.84%
Fidelity® Select Utilities	FSUTX	0.25%	0.78%
Fidelity® Strategic Income	FADMX	0.00%	0.69%
First Eagle Global A	SGENX	0.40%	1.11%
First Eagle US Value A	FEVAX	0.40%	1.10%
Guggenheim Managed Futures Strategy P	RYMFX	0.45%	1.81%
Hussman Strategic Growth	HSGFX	0.00%	1.29%
Janus Henderson Global Select T	JORNX	0.35%	0.92%
Merk Hard Currency Inv	MERKX	0.40%	1.30%
Metlife Stable Value 25053 Cl 0	METGEN3	0.00%	N/A
Oakmark Equity And Income Investor	OAKBX	0.40%	0.78%
Oakmark International Small Cap Investor	OAKEX	0.40%	1.36%
Permanent Portfolio Permanent I	PRPFX	0.38%	0.82%
PIMCO Commodity Real Ret Strat A	PCRAX	0.45%	1.69%
PIMCO Total Return A	PTTAX	0.45%	0.89%
Royce Micro-Cap Invmt	RYOTX	0.00%	1.58%
Rydex Inverse Government Lg Bd Strat Inv	RYJUX	0.45%	3.72%
Rydex Inverse Nasdaq-100® Strategy Inv	RYAIX	0.45%	1.50%
Rydex Inverse S&P 500® Strategy Inv	RYURX	0.45%	1.45%
T. Rowe Price Capital Appreciation Adv	PACLX	0.40%	1.00%
T. Rowe Price Real Estate Advisor	PAREX	0.40%	1.03%
T. Rowe Price Small-Cap Value	PRSVX	0.15%	0.85%
Templeton Developing Markets A	TEDMX	0.40%	1.39%
Third Avenue Small Cap Value Instl	TASCX	0.35%	1.15%
Vaneck Global Hard Assets A	GHAAX	0.51%	1.38%
Vanguard 500 Index Investor	VFINX	0.00%	0.14%
Vanguard GNMA Inv	VFIIX	0.00%	0.21%
Vanguard Inflation-Protected Secs Inv	VIPSX	0.00%	0.20%
Vanguard Total Bond Market Index Inv	VBMFX	0.00%	0.15%
Vanguard Total Intl Stock Index Inv	VGTSX	0.00%	0.17%
Vanguard Total Stock Mkt Idx Inv	VTSMX	0.00%	0.14%

II. Disclosures

- A. The information provided in this attachment is obtained from sources deemed to be reliable. However, its accuracy cannot be guaranteed by Newport, its subsidiaries, affiliates or associates. Errors and omissions may occur. None of the information provided herein constitutes a recommendation by Newport, its subsidiaries, affiliates or associates, or a solicitation of an offer to buy or sell any securities.

- B. For additional information about a specific fund, including its management fees, risks, trading policies, charges and expenses, please refer to the fund's prospectus. Always consult a prospectus prior to investing.
- C. If you have any questions regarding the information provided in this attachment, please contact your Relationship Manager.

¹ The Plan Credits column includes payments (if any) that Newport may receive as a result of the investment of the Plan's assets into the funds listed in the table. Such payments are generally paid from the fund family, and may include, but are not limited to, sub-transfer agent credits, fees related to purchases and sales of interests in a fund (including 12b-1 fees), fees for providing services to plan investors or plan participants such as communication and other shareholder services, or other revenue remitted by investment options offered within the Plan. Newport uses these payments to pay direct expenses for the Plan, including a quarterly revenue sharing administrative fee. Please note these amounts are included in, and not in addition to, the Fund Expense Ratio listed in the last column.

² The Fund Expense Ratio column provides information on the expense of investing in the fund, expressed as a percentage of assets invested in the fund. The expense ratio may include the following types of fees: accounting fees, administrative fees, advisor fees, auditor fees, board of directors fees, custodial fees, fees related to purchases and sales of interests in a fund (including 12b-1 fees), legal fees, organizational fees, professional fees, registration fees, shareholder reporting fees, sub-advisor fees, and transfer agency fees. For further information regarding a specific fund's operating expenses and management fees, please refer to such fund's prospectus. This information has been derived from Morningstar as of the calendar year quarter end preceding the date of this document. Please note this ratio also includes the expenses shown as Plan Credits.

³The stated rate disclosed is the maximum revenue payment that could be received; however, the amount actually paid could be less.

SELMA6



ACCOUNT APPLICATION

I. ACCOUNT TYPE

Newport Trust Company ("NTC") is to establish the following type of account:

☒ Nondiscretionary (Directed) Trustee

☐ Nondiscretionary (Directed) Custodian

II. PLAN INFORMATION

Plan Name: City of Selma 457(b) Plan

Plan Type: ☐ 401(k) ☐ Profit Sharing Only ☐ 403(b) ☒ 457(b) ☐ 457(f) ☐ ESOP ☐ Traditional Defined Benefit
☐ Cash Balance Defined Benefit ☐ Non-qualified deferred compensation plan ☐ nonelecting church plan
☐ Other, specify _____

If 457(b) or 457(f) selected, is the Plan sponsored by a tax-exempt entity? ☐ Yes ☐ No

Plan ID: (to be completed by NTC) WC01097 Plan Year End: _____ Plan Inception Date: _____

Participant Directed Plan: ☐ Yes ☐ No

Asset Size: \$ _____

Current Recordkeeper Entity: _____ Current TPA Entity: _____

III. PLAN SPONSOR INFORMATION

Plan Sponsor: City of Selma NAICS Code: _____

Entity Type: (i.e., C or S Corp, LLC, Partnership) _____ Fiscal Year end: _____ EIN: 94-6000431

Street Address: 1710 Tucker St. City/State/Zip: Selma, CA 93662

Sponsor Telephone: (559) 891-2200 Fax: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Sponsor

Main Contact's Title (i.e., President, CEO, Member, Partner): _____

Day-to-Day Contact Name: _____ Email: _____

IV. PLAN ADMINISTRATOR

Plan Sponsor is Plan Administrator: ☒ Yes – Skip to V. ☐ No – Complete the remainder of this section.

A. Plan Administrator Name: _____ EIN: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Administrator.

Day-to Day Contact Name: _____ Email: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

V. THIRD PARTY ADMINISTRATOR ("TPA") INFORMATION

Newport Group, Inc. is Third Party Administrator: ☐ Yes – Skip to VI. ☐ No – Complete the remainder of this section.

TPA Firm Name: _____ Contact Name: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VI. INVESTMENT ADVISOR INFORMATION

The Plan Sponsor may choose to designate an investment advisor for the Plan. Please mark the appropriate selection below:

Is an Investment Advisor(s) designated for the Plan:

☐ Yes – Complete an Advisor Information and Authorization Form.

☐ No – Skip to VII.

*Please complete an Advisor Information and Authorization Form for **each** Investment Advisor for the Plan and attach to this Application.*

An Advisor Information and Authorization Form should be completed for each advisor prior to providing investment direction to Newport Trust Company.

VII. BROKER/DEALER INFORMATION

The Plan Sponsor or the Plan Administrator may choose to designate a broker/dealer for the Plan. Please mark the appropriate selection below and provide the broker/dealer information if necessary:

Is a Broker/Dealer designated for the Plan: ☐ Yes – Complete the remainder of this section. ☐ No – Skip to VIII.

A. Dealer Name: _____ Dealer Number: _____ Branch Number: _____

Representative Name: _____ Representative Number: _____

Branch Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VIII. ADDITIONAL PLAN AND PARTICIPANT INFORMATION

Current Trustee(s) contact: _____ Phone: _____ Email: _____

Current Custodian contact: _____ Phone: _____ Email: _____

Current Recordkeeper contact: _____ Phone: _____ Email: _____

Current TPA contact: _____ Phone: _____ Email: _____

Asset Transfer (choose one): ☐ In-cash ☐ In-kind ☐ In-cash/In-kind ☐ No current assets

Number of Eligible Participants: _____ Number of Participants: _____ Participant Loans: ☐ Yes ☐ No

Periodic Payments: ☐ Yes ☐ No Number of Participant Payments (if applicable): _____

Expected date of first payroll deposit or asset transfer to Newport Trust Company: _____

Indicate when contributions will be made:

Match: ☐ Periodic ☐ Year-End ☐ N/A

Profit Sharing: ☐ Periodic ☐ Year-End ☐ N/A

Other: ☐ Periodic ☐ Year-End ☐ N/A (Describe): _____

IX. INVESTMENT SELECTION

Please indicate which of the following investments are currently assets of the Plan or will be assets of the Plan. You may be required to complete additional documents for the investments selected.

☐ **MUTUAL FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☐ **COLLECTIVE INVESTMENT FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☐ **STABLE VALUE FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☐ **EMPLOYER STOCK**

Employer Stock must be reviewed and approved by NTC prior to inclusion in the Plan's account. Purchases and sales of approved securities can be submitted no more frequently than once per day. NTC will process such instructions within a reasonable period of time after NTC's receipt of instructions. NTC will not make any inquiry into the prudence, appropriateness or liability with respect to the acceptance, distribution, collection, tabulation or remittance of proxies and accompanying materials and other shareholder communications issued with respect to Employer Stock.

☐ **UNITIZED EMPLOYER STOCK**

Please complete Appendix A

☐ **GUARANTEED INVESTMENT CONTRACTS**

Guaranteed Investment Contracts ("GICs") must be reviewed and approved by NTC prior to inclusion in the Plan's account. If approved, NTC must be named as the owner and beneficiary of any GIC. Purchases and sales of GICs will be processed within a reasonable period after NTC's receipt of instructions.

☐ **PARTICIPANT LOANS**

NTC will not make any inquiry into the appropriateness or legality of any Participant loan or any Participant loan payment.

☐ **SELF-DIRECTED BROKERAGE ACCOUNT**

Requires completion of appropriate SDBA documentation.

☐ **UNITIZED MANAGED ACCOUNTS**

Unitized Managed Accounts must be authorized by the Plan Administrator or Recordkeeper/TPA, designated to NTC in writing and acknowledged by the Investment Advisor. The underlying investments of a Unitized Managed Account may include only funds on the NTC - approved fund list and other assets as applicable to the specific UMA program selected and which are pre-approved by NTC. Unitized Managed Account purchases and liquidations will be processed within a reasonable period after NTC's receipt of instructions.

Please complete Appendix B

☐ **EXCHANGED TRADED FUNDS (ETFs)**

Exchanged Traded Funds (ETFs) must be reviewed and approved by NTC prior to inclusion in the Plan's Account.

Please complete Appendix C

☐ **UNITIZED MODEL FUNDS**

All unitized investment funds must be reviewed and approved by NTC prior to inclusion in the Plan's Account

Please complete Appendix D

☐ LIFE INSURANCE/GROUP ANNUITY CONTRACTS

Group annuity contracts (both fixed and variable) issued by commercial insurance companies will be purchased or sold by NTC within a reasonable period after its receipt of written instructions, along with the annuity application. NTC must be named as the owner and beneficiary of any annuity policy. All annuity contracts must be reviewed and approved by NTC prior to inclusion in the Plan's account.

Please complete Appendix I

☐ DEFAULT FUND/INVESTMENT

Please complete the remainder of this section if the Plan will have a default fund or investment

Name of Default Fund/Investment (if applicable): _____

Is this fund/investment a Qualified Default Investment Alternative (QDIA)? ☐ Yes ☐ No

***Please note that the cash account equivalent in your investment menu will be the fund to which all forfeitures are allocated.*

X. AUTHORIZED SIGNERS

In accordance with the provisions of the trust or custodial agreement between NTC and the Plan Sponsor and Plan Administrator for the above-named Plan, NTC and its affiliates may accept and act upon instructions on behalf of the Plan received from the Authorized Persons or Parties as set forth in the Authorized Signers Form.

ACCOUNT OPENING DOCUMENT REQUIREMENTS

In addition to completing the signatures contained herein and Exhibits and Appendices hereto, please provide the following documents:

1. Authorized Signers Attachment to this Application
2. Most Current Asset Statement
3. Plan Document Requirements:
 - Copy of executed Plan Document
 - Adoption Agreement and base plan document (*required for prototype plans*)
 - IRS Determination Letter (*for customized or non-standard plans only*)
4. Customer Identification Program Requirements (*for Tax-exempt 457(b) or 457(f) plans, non-qualified deferred compensation plans and nonelecting church plans only*):
 - IRS Form W-9 AND
 - Proof of Entity Status (i.e., certified articles of incorporation, government-issued business license, Secretary of State filing, partnership agreement, etc.)

NTC may request or require additional documents, including documents required to accept certain investments.

SIGNATURE

Plan Sponsor and/or Plan Administrator represents and warrants that all information provided in this Application, including required supplemental documentation (together, the "Information"), is true and correct and that Plan Sponsor will immediately notify NTC of and correct any errors in the Information provided. Plan Sponsor shall immediately notify NTC in writing of any changes to the Information provided herein and NTC may rely on the Information until it receives written notice of such change. The Plan Sponsor shall indemnify and hold harmless NTC and its affiliates and their officers, directors, employees, and agents from any loss or liabilities (including attorneys' fees) arising out of its reliance or action taken in reliance upon any Information provided hereunder, except to the extent such losses or liabilities are a result of the gross negligence of NTC or its affiliates.

Plan Sponsor and/or Plan Administrator further represents and warrants that the undersigned has the authority to open this account and to execute this Agreement.

By executing this Application, the Plan Sponsor and Plan Administrator agree to its terms.

NOTE: Please sign in both signature blocks, even if the Plan Sponsor and Plan Administrator are the same.

PLAN SPONSOR

Signature  _____

Printed Name: _____

Title: _____

Date: _____

PLAN ADMINISTRATOR

Signature  _____

Printed Name: _____

Title: _____

Date: _____

TRUST AGREEMENT

THIS TRUST AGREEMENT (the "Agreement") is entered into as of the [REDACTED] by and between the entity named on the signature page hereof (the "Company") and Newport Trust Company (the "Trustee"), a New Hampshire chartered trust company.

WHEREAS, the Company has adopted the City of Selma 457(b) Plan (the "Plan") for the benefit of its employees; and

WHEREAS, the Company desires to appoint the Trustee as a nondiscretionary, directed trustee of the Plan, and the Trustee desires to serve as such.

NOW THEREFORE, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS

The use of defined terms in this Agreement shall have the following meanings:

- 1.01 "Authorized Person" shall mean one or more persons, including a recordkeeper of the Plan, to whom the Plan Administrator may delegate any or all of the duties, responsibilities, or authority imposed upon or granted to the Plan Administrator or the Plan.
- 1.02 "Code" shall mean the Internal Revenue Code of 1986, as amended.
- 1.03 "Company" shall mean the entity named on the signature page hereof and which is the "plan sponsor" (as that term is defined in Section 3(16)(b) of ERISA) of the Plan.
- 1.04 "Contracts" shall mean, collectively, life insurance policies, group annuities, guaranteed investment contracts, bank investment contracts or similar vehicles permitted under the Plan.
- 1.05 "Employer Securities" shall mean "qualifying employer securities" (as defined in Section 407 of ERISA).
- 1.06 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.
- 1.07 "Indemnified Parties" shall have the meaning set forth in **Section 15.02**.
- 1.08 "Investment Manager" shall mean an "investment manager" as defined in Section 3(38) of ERISA appointed by the Company in accordance with **Section 10.02** of this Agreement.
- 1.09 "Losses" shall have the meaning set forth in **Section 15.02**.
- 1.10 "Participant" shall mean an eligible employee (as defined in the Plan) who participates in the Plan.
- 1.11 "Participant Directed Account" shall mean the portion of the Trust over which a Participant has investment direction authority.
- 1.12 "Permitted Investments" shall have the meaning set forth in **Section 10.03**.
- 1.13 "Plan" shall mean the retirement plan, and any amendments thereto, adopted by the Company as designated above, some or all of the assets of which are held by the Trustee pursuant to the terms of this Agreement.

- 1.14 “Plan Administrator” shall mean the person, persons or entity appointed by the Company in accordance with **Article V** to act as a “plan administrator” (as that term is defined in ERISA).
- 1.15 “Trust” shall have the meaning set forth in **Section 2.01**.
- 1.16 “Trustee” shall mean Newport Trust Company and any duly appointed successor trustee or trustees acting hereunder.

ARTICLE II: THE TRUST

- 2.01 Establishment of Trust. The Company hereby establishes with the Trustee a trust consisting of such sums of money and such other assets acceptable to the Trustee in its sole discretion as shall from time to time be actually delivered to the Trustee under the Plan, together with the earnings and profits thereon, less any payments or distributions that are made by the Trustee as provided herein (the “Trust”). The Plan, this Agreement, and the Trust created hereby are intended to meet the applicable requirements of ERISA and Sections 401(a) and 501(a) of the Code. The Company shall be responsible for ensuring the continued qualification of the Plan and exemption of the Trust.
- 2.02 Superseding Effect of the Agreement. This Agreement restates, replaces or amends any existing trust agreement covering assets held or to be held in the Trust.
- 2.03 Exclusive Use. Except as may otherwise be permitted by law, at no time prior to the satisfaction of all liabilities with respect to the Participants and their beneficiaries shall any part of the corpus or income of the Trust be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and their beneficiaries and for defraying the reasonable expenses of administering the Plan.

ARTICLE III: COMPANY REPRESENTATIONS AND WARRANTIES

- 3.01 The Company hereby represents and warrants that:
- a. The terms of the Plan provide for the creation of a trust and the appointment of a trustee and one or more Investment Managers.
 - b. The Company represents and warrants that it either has responsibility as a “named fiduciary” as defined in Section 402(a)(2) of ERISA or has properly delegated the responsibility to a Plan fiduciary, other than the Trustee, for determining the correctness, amount and timing of contributions and for the collection of contributions.
 - c. The Company is the “plan sponsor” of the Plan as defined in Section 3(16)(b) of ERISA and has the authority to act for all related participating employers, if any, designated under the Plan.
 - d. The terms of the Plan do not impose any duties or obligations upon the Trustee that are not contained in, or are inconsistent with, this Agreement.
 - e. The Company has full power and authority under applicable law, and has taken all action necessary, to enter into and perform this Agreement, and the person executing this Agreement on its behalf is duly authorized and empowered to execute and deliver this Agreement.
 - f. This Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.
 - g. No consent or authorization of, filing with, or other act by or in respect of any governmental authority is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement.
 - h. The execution, performance and delivery of this Agreement shall not result in a violation of any applicable law or impairment of any of its contractual obligations.

ARTICLE IV: STANDARD OF CONDUCT

- 4.01 The Trustee shall discharge its duties hereunder solely in the interest of the Participants and for the exclusive purpose of providing benefits to Participants and for defraying reasonable expenses of administering the Plan. The Trustee shall perform all of its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, or in accordance with such other standard as may, from time to time, be required by law, and in accordance with the Plan and this Agreement, insofar as they are consistent with ERISA.
- 4.02 Except as may be authorized by regulations promulgated by the Secretary of Labor, the Trustee shall not maintain the indicia of ownership in any assets of the Trust outside of the jurisdiction of the District Courts of the United States.

ARTICLE V: PLAN ADMINISTRATOR

- 5.01 The Company shall appoint in writing a Plan Administrator. If no such person, persons or entity is so designated, such term shall mean the Company.
- 5.02 The Plan Administrator may delegate any or all of the duties, responsibilities, or authority imposed upon or granted to the Plan Administrator under the Plan or this Agreement to one or more Authorized Persons; provided however that any such delegation may not violate the provisions of ERISA, and provided further that the Trustee must be notified in writing prior to the effective date of any such delegation of duty, responsibility or authority of the Plan Administrator to any Authorized Person.
- 5.03 Unless an Investment Manager is appointed under **Section 10.02**, or unless the Company and the Trustee have agreed to allow Participant-directed investments under **Section 10.05**, the Plan Administrator shall have exclusive responsibility for management of the Trust and the direction of the investment of the Trust. Under no circumstances will the Trustee make any decision or direction with respect to the investment of the Trust, or have the authorization to make such decision or direction.

ARTICLE VI: INSTRUCTIONS

- 6.01 Reliance on Instruction. The Trustee may rely in all respects, without having to make further inquiry, upon instructions by the Company, Plan Administrator, Investment Manager or Authorized Person, including investment instructions under **Article X** of this Agreement. The Trustee shall be deemed to have received proper instructions upon receipt of written instruction given to the Trustee in a form and manner required by or acceptable to the Trustee.
- 6.02 Conflicting Instructions. In the event of any ambiguous or conflicting instructions to, or adverse claims or demands upon, the Trustee, the Trustee shall be entitled, at its option, to refuse to comply with any such instruction, claim or demand as long as such ambiguity or conflict shall continue, and in so refusing the Trustee may elect not to make any payment or other disposition of assets held pursuant to this Agreement. The Trustee shall not be or become liable in any way for its failure or refusal to comply with any such ambiguous or conflicting instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such ambiguous, conflicting or adverse demands (a) have been resolved and it has been notified in writing thereof or (b) have finally been determined in a court of competent jurisdiction.

ARTICLE VII: CONTRIBUTIONS AND DISTRIBUTIONS

- 7.01 Receipt of Contributions. The Trustee shall hold in the Trust all amounts received by the Trustee and designated as contributions to the Trust, except to the extent required by law. All contributions so received, together with any income or other amount realized by the Trust, shall be invested and administered by the Trustee in accordance with the terms of this Agreement. The Plan Administrator, unless another fiduciary is designated pursuant to 3.01(b), shall have the responsibility to enforce collection from the Company, of any contributions to the Trust and to determine the correctness of the amount and timing of any contribution. The Trustee shall have no responsibility

to enforce the collection from the Company of any contribution to the Trust or to determine the correctness of the amount or timing of any contribution, nor any responsibility for the sufficiency of the Trust. The Trustee shall rely upon the determination of the Plan Administrator that all assets received by it are properly contributed or transferred to the Trust in accordance with the provisions of the Plan. Such assets may be cash or in-kind, and provided that in-kind contributions will be permitted only in defined contribution plans as long as such contributions have been determined by the Plan Administrator to be discretionary and unencumbered.

- 7.02 Unacceptable Assets. The Company shall place any assets which are unacceptable to the Trustee with another trustee under a separate trust agreement or shall retain such assets in any other "appropriate account" as defined in Section 401(f) of the Code. The Trustee shall have no responsibility for such assets.
- 7.03 Returns to Company. The Trustee will return contributions to the Company if the Company or the Plan Administrator provides instructions to the Trustee to do so. The Company is solely responsible for ensuring that an instruction to return any amount to the Company meets all applicable requirements, including those of ERISA, as applicable.
- 7.04 Distributions. Upon receipt of instructions from the Plan Administrator or Authorized Person, the Trustee shall make payments from the Trust to or for the benefit of Participants, in such manner, amounts and times, and for such purposes as may be specified in such instructions, or for the payment of fees and expenses pursuant to **Article XII** of this Agreement. The Trustee shall neither be responsible for determining the accuracy or appropriateness of any such distribution nor be required to make any distribution out of the Trust in excess of the available funds in the Trust.

ARTICLE VIII: PARTICIPANT LOANS

- 8.01 If the Plan permits loans to eligible Participants, the Trustee shall have no duties or responsibilities with the administration of such loans, including but not limited to determining the terms of participant loans, approving loans, providing appropriate disclosures under federal and state law, collection of payments and the enforcement of participant notes. Trustee's sole responsibility with respect to such loans shall be to make distributions to Participants in accordance with the instructions of the Plan Administrator or Authorized Person and to receive payments thereon.

ARTICLE IX: ADMINISTRATIVE POWERS

- 9.01 Limitations. The Trustee has no responsibility or liability for the administration of the Plan, such as the determination of matters relating to the eligibility of any employee to become a Participant or remain a Participant, the amount of benefits which a Participant or beneficiary is entitled to receive, whether or to what extent any asset or item of income or expense should be allocated to a Participant's individual account, whether a distribution to a Participant or beneficiary is appropriate, whether the Plan is being administered in a discriminatory manner, the selection of investments to be offered under the Plan, the size and type of any insurance policy to be purchased from any insurer for any Participant, the filing of the annual Form 5500s on behalf of the Plan, or similar matters.
- 9.02 Discretionary Powers. The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise in its sole discretion:
- (a) Provided the Trustee is a bank or trust company that is subject to supervision by the United States or a State, or a nominee of such bank or trust company, to hold the assets constituting the Trust in its own name or in custody in the name of a nominee and under such conditions of custody and safekeeping as the Trustee shall deem appropriate for the type of trust assets and shall collect all interest, dividends and other income thereon. Nothing in this Agreement requires the Trustee to maintain physical custody of stock certificates or other indicia of ownership of any type of asset representing assets within the Trust, and the Trustee may deposit or hold assets of the Trust in a custodial account, provided that such account is maintained in the name of the Trustee.
 - (b) To hold such investments for safekeeping or to deposit such securities, or cause them to be deposited, in a clearing system established to settle transfers of securities and cause them to be held in the nominee name of such clearing system.

- (c) To keep any portion of the Trust, including, but not limited to, amounts with respect to which the Trustee has not received instructions, in cash, it being understood that the Trustee shall not be required to pay any interest on such balances, unless otherwise agreed by the parties.
- (d) To engage the services of, and to delegate duties, powers and responsibilities to, such agents, representatives, advisers, counsel and accountants which the Trustee considers necessary or appropriate, any of whom may be an affiliate of such person, and as a part of its expenses under **Section 12.02** of this Agreement and to the extent permissible by ERISA, to pay their reasonable expenses and compensation.
- (e) To engage a custodian to perform certain custodial duties and responsibilities for the Trust, including maintaining physical control of the Trust assets, providing record maintenance and producing statements on such assets.
- (f) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned unless specifically prohibited by the Company or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder, and to perform all inherent, implied, and statutory powers now or subsequently provided by law.

9.03 Contracts. If the Plan permits Contracts as Plan assets, the following provisions shall apply with respect to any such Contracts that become part of the Trust.

- (a) The Trustee shall have no obligation to take any action with respect to any Contract, including to pay any premium on any Contract, except upon instructions from the Plan Administrator or Authorized Person; provided, however, that the Trustee may (although shall not be obligated to) make such payment in order to avoid the lapse of such Contract and the Trustee shall not be liable for the application of any part of the Trust made solely for this purpose in the absence of specific instructions. Contract premiums, assessments, dues, charges and interest shall be paid only from cash available in the Trust. The Trustee shall not be liable for losses arising out of the lapse in such Contract unless such lapse is due to the Trustee's negligence or willful misconduct.
- (b) The Trustee shall have no responsibility or liability with respect to the selection or monitoring of the issuers of such Contracts. The Trustee is not responsible for (i) the form, genuineness, validity, sufficiency or effect of any Contract, (ii) the failure of any issuing company to make payments provided by any Contract (iii) the action of any person that may delay payment or render a Contract null and void or unenforceable in whole or in part, or (iv) the fact that for any reason whatsoever any Contract shall lapse or otherwise be uncollectible.
- (c) Any company issuing a Contract may deal with the Trustee as owner of any Contract issued by such company and held in the Trust, without inquiry as to the authority of the Trustee to so act, and may accept and rely upon any written notice, instruction, direction, certificate or other communication signed by the Trustee, and shall incur no liability or responsibility by so doing. Any sums paid by an issuing company under any of the terms of a Contract issued by it, either to the Trustee, or, in accordance with the direction of the Trustee, to any other person or persons designated in such Contract as the person or persons to whom such payment shall be made, shall be a full and complete discharge of the liability to pay such sums, and the issuing company shall have no obligation to look into the terms of this Agreement.

ARTICLE X: INVESTMENT POWERS

10.01 No Discretion. The Trustee shall have no discretionary control over, or any other discretion regarding, the investment of the Trust. It shall be the responsibility of the Company to determine the diversification policy with respect to the investment of Plan assets, for monitoring adherence to such policy, and for advising the Trustee with respect to its compliance with any investment limitations contained in the Plan. The Company hereby instructs the Trustee to act solely in accordance with instructions from the Company, Plan Administrator, Authorized Person or Investment Manager with respect to the investment of the assets held in the Trust. To the full extent permitted by applicable law, the Trustee shall have (a) no duty to inquire whether such instructions conform to the Plan or applicable law, including, but not limited to Section 404(c) of ERISA, and (b) no liability or responsibility for following any such instruction, or for failing to act in the absence of such instruction.

10.02 Investment Manager. The Company may appoint an Investment Manager to direct investment of the Trust in whole or in part. The Company shall notify the Trustee in writing of its appointment of any Investment Manager. Each appointment of any person as an Investment Manager shall constitute the representation and warranty to the Trustee by the Company that the Company has determined that such person either is, and so long as such appointment is effective remains, (i) registered as an investment advisor under the Investment Advisors Act of 1940, or (ii) a bank as defined in the Investment Advisors Act of 1940, or (iii) an insurance company qualified to perform the services hereinafter described under the laws of more than one State.

10.03 Permitted Investments. The Company, Plan Administrator, Authorized Person or Investment Manager may direct the Trust be invested in property of any character, real or personal, including but not limited to the following securities: stocks (whether common or preferred) of any kind or class of any corporation, including shares of open-end or closed-end investment companies (i.e., mutual funds) and small business investment companies; bonds; notes or debentures (including bonds, notes or debentures, options, futures or warrants); unit investment trusts; U.S. Treasury obligations and other governmental obligations; shares or units of participation in qualified common trust funds, qualified pooled funds or pooled investment funds of any insurance company qualified to do business in the state; or any other investments that the Company, Plan Administrator or Investment Manager believes are proper and consistent with the terms and purposes of the Plan, without being limited by nonfederal laws covering the investment of trust funds, but taking into account the requirements of ERISA and the Plan, and provided that such investments meet the Trustee's criteria for administrative feasibility (individually and collectively, "**Permitted Investments**").

In the event such directions are not received by the Trustee, the appropriate party shall be deemed to have directed the Trustee to invest in the cash investment option available to the Plan under agreement with the Trustee, which cash investment option may include a savings instrument or deposit account of the Trustee, its affiliates or subcontractors, which bears a reasonable rate of interest. The Trustee may hold a reasonable portion of the Trust in cash pending payment of current expenses or benefits from the Trust, or pending the consummation of transactions entered into on behalf of the Trust, without liability to the Trust for interest thereon.

10.04 Nondiscretionary Powers. The Trustee shall have the following nondiscretionary powers which it shall exercise upon the instructions of the Company, Plan Administrator, or Investment Manager or Authorized Person:

- (a) Invest and reinvest all or a portion of the assets comprising the Trust in Permitted Investments.
- (b) To deposit or invest all or any part of the assets of the Trust in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including the Trustee or any of its affiliates, provided that with respect to such deposits with the Trustee or an affiliate, the deposits shall bear a reasonable interest rate;
- (c) Invest and reinvest all or any portion of the assets comprising the Trust in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Section 401(a) of the Code. This authorization applies solely to a group trust fund exempt from taxation under Section 501(a) of the Code and the trust agreement which satisfies the requirements of Revenue Ruling 81-100. The provisions of the group trust fund agreement, as amended from time to time, are incorporated by reference within this Agreement. The provisions of the group trust fund will govern any investment of Plan assets in that fund. The Plan Administrator must specify, in a form acceptable to the Trustee, to which group trust fund(s) this authorization applies.
- (d) Sell, exchange, convey, transfer or otherwise dispose of, any securities or property held by it, by private contract or public auction, with or without notice or advertisement of any kind, and no person dealing with the Trustee shall be bound to see the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition.
- (e) To purchase or sell, write or issue, puts, calls or other options, covered or uncovered, to enter into financial futures contracts, forward placement contracts and standby contracts and, in connection therewith, to deposit, hold or pledge assets of the Trust.

- (f) To execute any securities transactions and to perform any other services required to be provided by a registered broker dealer through the Trustee's affiliate brokers, at the affiliate's normal rates of compensation and without diminution of the compensation payable to the Trustee hereunder, provided such transactions are executed in accordance with applicable law.
- (g) To give general or special proxies or powers of attorney with or without powers of substitution; to exercise any conversion privileges, voting rights, subscription rights, rights to participate in voting trusts with other stockholders, or other options, and to make payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; to abandon any property determined by it to be worthless; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities and other property held as part of the Trust.
- (h) To lend securities or enter into repurchase agreements, to extend the time of payment of any obligation owing to the Trust, and to borrow money for the purposes of the Trust from others, excluding the Trustee in its corporate capacity and excluding any other "party in interest" (as defined in Section 3(14) of ERISA); provided, however, the Trustee may agree to an arrangement to borrow from a party in interest upon such terms and conditions as it may deem acceptable. Any such loan shall be upon such terms and conditions as the Company or Plan Administrator may deem comply with the requirements of applicable law and, for the sum so borrowed or advanced, the Trustee may issue a promissory note and secure the repayment thereof by creating a lien upon assets of the Trust.
- (i) To contest, settle, abandon or compromise claims, demands, debts or damages due or owing to or from the Trust, to commence, settle, compromise or defend suits or legal or administrative proceedings, and to represent the Trust in suits and legal and administrative proceedings; provided, however, the Trustee shall have no duty to begin or maintain any legal or administrative proceeding unless it has been indemnified by the Company to its satisfaction for its counsel fees, costs, disbursements, and all other expenses and liabilities to which it may be subjected as a consequence of beginning or maintaining such legal or administrative proceeding.
- (j) To make, execute, acknowledge and deliver documents of transfer and conveyance and other instruments that may be necessary or appropriate to carry out the powers granted herein.

10.05 **Participant Directed Accounts.** Where the Company and the Trustee have agreed to allow Participant-directed investments, each Participant, through the Plan Administrator (or Authorized Person appointed by the Plan Administrator for the purposes of this **Section 10.05**), shall direct the Trustee regarding the investment of its Participant Directed Account. Participant-directed investments are limited to those investments permitted under the Plan and under any agreement between the Company and the Trustee. If the Trustee does not receive instruction as to the investment of any portion of a Participant Directed Account, the Participant shall be deemed to have directed the Trustee to invest such cash in the cash investment option available to the Plan under agreement with the Trustee, which may include a savings instrument or deposit account of the Trustee, which bears a reasonable rate of interest. A Participant's beneficiary, upon the death of a Participant, or an alternate payee, in the event of a qualified domestic relations order, shall provide investment directions through the Plan Administrator (or Authorized Person, if applicable) and such beneficiary or alternate payee shall assume all rights and responsibilities for the Participant's Participant-directed investments. The exercise of investment direction by a Participant shall not cause such Participant to be a fiduciary solely by reason of its exercise, and neither the Trustee nor any other fiduciary of the Plan shall be liable for any loss, or by reason of any breach, that results from the exercise of investment direction by a Participant.

10.06 **Employer Securities.** Pursuant to the Plan, the Trust may be invested in Employer Securities to the extent necessary to comply with investment instructions under this Agreement. In no event, however, may more than 50% of Plan assets attributable to Rollover Accounts (as defined in Section 1.1(f) of the Plan) be invested in Employer Securities. The Trustee shall have no responsibility for determining whether any Employer Security is a "qualifying employer security" or whether any acquisition or disposition of Employer Securities is consistent with applicable law, including (without limitation) the prohibited transaction restrictions of ERISA and the exemptions to those restrictions. The Trustee shall acquire and dispose of such securities in open market transactions or in such other manner as instructed. If the Trust consists of Employer Securities that are not traded on a recognizable market, or

the information necessary to ascertain the fair market value is not readily available, the Plan Administrator shall provide to the Trustee the value of such securities for all purposes under the Plan and this Agreement, and the Trustee shall be entitled to rely upon the value of such Employer Security provided by the Plan Administrator. If the Plan Administrator fails or refuses to instruct the Trustee on the value of such Employer Security, the Trustee, in its sole discretion, may engage an independent appraiser to determine the fair market value of such Employer Security and shall be entitled to rely upon the value placed upon such Employer Security by the independent appraiser. Any expenses with respect to such appraisal shall be a charge against the Trust and may be paid from the Trust as provided in this Agreement. The Company shall be responsible for the preparation and filing of all reports required under federal or state securities laws with respect to the Trust's ownership of Employer Securities, and shall immediately notify the Trustee in writing of any requirement to stop purchases or sales of Employer Securities pending the filing of any report. All provisions of this **Section 10.06** shall also apply to any qualifying employer securities received as a result of any exchange or conversion of, or dividend received on, Employer Securities.

- 10.07 Prohibited Transactions. The Company understands that certain transactions are prohibited for tax-exempt retirement plans under ERISA and under Code Section 4975. The Company will not direct the purchase or sale of any Trust asset to or from a "disqualified person" as defined in Code Section 4975(e), or a "party-in-interest" as defined in ERISA Section 3(14), or in any other way direct an investment or other transaction that would be deemed a non-exempt "prohibited transaction" with respect to the Plan under applicable law. The Trustee shall have no duty to determine whether any transaction is, or has the potential to be, a "prohibited transaction."
- 10.08 Proxies. All voting rights with respect to assets held in the Trust, including shares of Employer Securities, shall be exercised by the Trustee only as instructed by the Plan Administrator or Authorized Person, or as required by applicable law. The Plan Administrator shall have the responsibility for instructing the Trustee as to voting such shares, except to the extent such responsibility is delegated to another Authorized Person, under the terms of the Plan or under an agreement between a named fiduciary of the Plan and an Investment Manager, in which case such Authorized Person shall have such responsibility. In no event shall the Trustee be responsible for the voting or tendering of shares of securities held in the Trust or for ascertaining or monitoring whether or how proxies are voted or whether the proper number of proxies is received.

ARTICLE XI: RECORDS AND ACCOUNTS

- 11.01 Records. The Trustee shall maintain true, accurate, and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. All accounts, books, and records relating thereto shall be open to inspection and may be audited from time to time by any person designated by the Plan Administrator during the Trustee's regular business hours as mutually agreed to in writing by the parties.
- 11.02 Written Accounts. As soon as reasonably practical after the close of each Plan year, and within ninety (90) days after the removal or resignation of the Trustee, the Trustee shall render to the Company a written statement of account of all investments, receipts and disbursements, and all other financial transactions relating to the Trust, including the value of the assets held by the trust. Upon the expiration of ninety (90) days from the date of filing such account, the Trustee shall be forever released and discharged from all liability as to all items and matters included in such accounting as if settled by the decree of a court of competent jurisdiction, except with respect to any such action or transaction to which the Company shall, within such ninety (90) day period, file written objections with the Trustee. The liability of the Trustee to persons other than the Company or Plan Administrator shall be limited to actions under ERISA brought within the period permitted by law for bringing of such action. Nothing herein contained, however, shall be deemed to diminish the right of the Trustee to have its accounts judicially settled by a court of competent jurisdiction.
- 11.03 Valuation. The valuation date of the Trust shall be the last day of each Plan year, and such other dates agreed to in writing by the Plan Administrator and the Trustee. The assets of the Trust shall be valued as of each valuation date at fair market value as determined by the Trustee based upon sources of information as it may deem reliable. The reasonable costs incurred in establishing values of the Trust shall be a charge against the Trust, unless paid by the Company.

ARTICLE XII: COMPENSATION AND EXPENSES

12.01 Compensation. The Trustee shall receive compensation for the performance of its services in accordance with its schedule of compensation (attached hereto as Exhibit A) in effect when such services are rendered. Such compensation shall constitute a charge against the Trust, unless the Company elects to pay all or any part of such compensation, in which case the Company shall be billed for the performance of such services. The Company expressly acknowledges and agrees that the Trustee may retain as additional compensation for its services any earnings (which are determined daily and which the Trustee expects will be generated at the prevailing federal funds rate) with respect to:

(a) amounts credited to non-interest bearing cash accounts under **Section 9.02(c)**;

(b) moneys during the period between the time the moneys are received by the Trustee and actually forwarded to implement investment instructions; and

(c) distributions between the time a disbursement is issued and presented for payment.

Moneys shall be invested as soon as practicable following receipt of the moneys and complete investment instructions, but not later than two business days following receipt of both the moneys and the complete investment instructions. Distribution checks shall be prepared and mailed as soon as practicable following receipt of a proper request for a distribution check, but not later than three business days following receipt of the request.

12.02 408(b)(2) Disclosure. The Trustee shall provide the Plan Sponsor with such information related to the expenses incurred hereunder as it may reasonably request or as otherwise may be required by law in order to enable the Plan Sponsor to comply with applicable reporting and disclosure requirements of ERISA.

12.03 Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Trustee in connection with the administration of the Trust shall constitute a charge to be paid by the Trust. However, nothing herein shall prohibit the Company from paying such amounts if the Trust is sufficient and the Company so elects.

12.04 Taxes. All taxes that may be levied or assessed under existing or future laws upon or in respect of the Trust or the income thereof shall be a charge against the Trust. The Plan Administrator shall timely file all federal, state, and local tax and information returns relating to the Plan and the Trust. The Plan Administrator shall be responsible for withholding any tax which by any present or future law is required to be withheld from any payment under the Plan. The Trustee is not responsible for preparation of any tax-related return or report including, but not limited to, the Form 5500 Annual Return/Report of Employee Benefit Plan.

12.05 Withdrawal from Trust. The Trustee may withdraw from the Trust amounts sufficient to pay any proper charge against the Trust. The Company shall be responsible for payment of any deficiency. To the extent permitted by applicable law, the Company may reimburse the Trust for any charges paid from the Trust.

ARTICLE XIII: REMOVAL OR RESIGNATION OF TRUSTEE; APPOINTMENT OF SUCCESSOR

13.01 Resignation; Removal of Trustee. The Trustee may resign at any time upon sixty (60) days' written notice to the Company and the Company may remove the Trustee, with or without cause, upon at least sixty (60) days' prior written notice to the Trustee.

13.02 Successor. Upon resignation or removal of the Trustee, the Company shall appoint a successor trustee who shall have substantially the same powers and duties as those conferred upon the Trustee hereunder. The appointment of a successor trustee shall be by written instrument delivered to the Trustee. Upon the failure of Company to appoint, or the failure of the effectiveness of the appointment by Company of, a successor trustee within sixty (60) days, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor trustee, the costs of which shall be borne by the Trust unless Company otherwise agrees to pay such costs. Upon the successor trustee's acceptance of its appointment as successor trustee, the Trustee shall assign, transfer and pay over to such successor trustee the funds and other property then constituting the Trust; provided, however that the Trustee may reserve such sum of money as it may deem advisable for payment of its fees and expenses in connection with the settlement of its account or for the payment of all taxes that may be lawfully assessed upon or in respect of the Trust or the income thereof for the period prior to the removal or resignation of the Trustee, or otherwise. Any

balance of the amount so reserved remaining after the payment of all such fees, expenses and taxes shall be paid over to the successor trustee.

- 13.03 Termination of Liability. When the assets comprising the Trust have been transferred and delivered to the successor trustee, and the accounts of the Trustee have been settled pursuant to **Section 11.02**, the Trustee shall be released and discharged from all further accountability or liability for the Trust and shall not be responsible in any way for the further disposition of the Trust or any part thereof.

ARTICLE XIV: AMENDMENT AND TERMINATION

- 14.01 Amendment and Termination of Agreement. Any amendment to this Agreement shall be in writing and signed by both parties. Either party may terminate this Agreement at any time upon sixty (60) days' written notice to the other party.
- 14.02 Termination of Plan. The term "Plan" as used herein shall include any amendment, whether made before or after the effective date of the execution of this Agreement, provided that any such amendment shall not alter the responsibilities or powers of the Trustee without the Trustee's prior written consent. In the event of the termination of the Plan, the Trustee shall dispose of the Trust in accordance with the written direction of the Company to the extent consistent with the terms of the Plan.

ARTICLE XV: LIMITATION OF LIABILITY AND INDEMNIFICATION

- 15.01 Limitations of Liability. The Trustee shall not be liable to Company for any act, omission, or determination made in connection with this Agreement except for its gross negligence, willful misconduct or breach of fiduciary duty. Without limiting the generality of the foregoing, the Trustee will have no liability for any losses arising from (i) its compliance with instructions from the Company, Plan Administrator, Investment Manager or Authorized Person or its failure to act in the absence of any such instruction or (ii) the acts of any prior or successor trustee.
- 15.02 Indemnification. The Company agrees to indemnify, defend and hold harmless the Trustee and the Trustee's directors, officers, employees, agents and affiliates (the "Indemnified Parties") from any and all damages, losses, costs, judgments, fines, penalties and expenses (including attorney's fees and disbursements) to which the Indemnified Parties may become subject to in connection with any matter arising out of this Agreement ("Losses"), except to the extent such Losses were caused by the Trustee's gross negligence, willful misconduct or breach of fiduciary duty. In addition to and not in derogation of the foregoing, the Company agrees to indemnify, defend and hold harmless Indemnified Parties from any and all Losses resulting from (i) their reliance upon any notice, instruction, direction or approval purporting to have been delivered by the Company, Plan Administrator, Investment Manager or Authorized Person or actions not taken in the absence of any such instruction, (ii) Company's failure to make any contribution to the Trust or the insufficiency of the Trust to discharge any liabilities under the Plan, (iii) the failure of any Participant Directed Account or participant loan to satisfy the requirements of the Plan and applicable law, (iv) any loss or diminution of the Trust resulting from changes in the market value of the Trust assets, (v) the Trustee's refusal to act on any unclear or ambiguous direction or, any direction that on advice of the Trustee's counsel, is determined to be in contravention of this Agreement or any applicable law, (vii) any act or failure to act by the Company, Plan Administrator, Authorized Person or Investment Manager, viii) the acts of any prior or successor trustees.

ARTICLE XVI: USA PATRIOT ACT NOTIFICATION

- 16.01 The following notification is provided to Company pursuant to Section 326 of the USA Patriot Act of 2001, 31 USC Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Company: When Company opens an account, if the Company is an individual, the Trustee will ask for the Company's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Trustee to identify Company, and, if Company is not an individual,

Trustee will ask for the Company's official name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Company. The Trustee may also ask, if the Company is an individual, to see a valid driver's license or other identifying documents, and, if the Company is not an individual, to see the Company's legal organizational documents or other identifying documents.

ARTICLE XVII: GENERAL

- 17.01 Effective Date. This Agreement shall be effective as of the later of the date hereof or the first date on which the assets are transferred to the Trust.
- 17.02 Governing Law. To the extent that state law shall not have been preempted by federal law, this Agreement shall be construed and enforced according to the laws of the State of Delaware, without regard to the choice of law principles thereof.
- 17.03 Conflict with Plan. The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Agreement, and no provisions of the Plan or any other document shall be deemed to affect such rights, duties, responsibilities, obligations and liabilities. If there is a conflict between provisions of the Plan and this Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Agreement shall be controlling. Notwithstanding the foregoing, if the Plan document has been pre-approved as a prototype or volume submitter document by the Internal Revenue Service, and if there is a conflict between the trust provisions of the Plan document and this Agreement, the trust provisions of the Plan shall be controlling.
- 17.04 Bond Not Required. Except as required under ERISA Section 412, the Trustee shall not be required to furnish any bond or security for the performance of its powers and duties hereunder.
- 17.05 Bankruptcy. The Trustee shall have no duty, in the event of the Company's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- 17.06 Severability. If any provision of this Agreement is held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions of this Agreement. On the contrary, the remaining provisions shall be fully severable and this Agreement shall be construed and enforced as if the illegal or invalid provision had never been inserted therein.
- 17.07 Non-Assignability of Interest. No benefit to which a Participant or beneficiary or an alternate payee is or may become entitled under the Plan shall at any time be subject in any manner to alienation or encumbrance, nor be resorted to, appropriated or seized in any proceeding at law, in equity or otherwise. No Participant or other person entitled to receive a benefit under the Plan shall, except as specifically provided in such Plan, have power in any manner to transfer, assign, alienate or in any way encumber such benefit under such Plan, or any part thereof, and any attempt to do so shall be void.
- 17.08 Waiver. No waiver by either party of any failure or refusal to comply with an obligation hereunder shall be deemed a waiver of any obligation hereunder or any subsequent failure or refusal to comply with any other obligation hereunder.
- 17.09 Assignment. Either party may assign this Agreement to an affiliate or successor in interest upon written notice to the other party. The provisions of this Agreement shall be binding upon the successors and assigns of the parties hereto.
- 17.10 Notice. Except as the parties may otherwise agree in writing, all notices, reports, accounts and other communications from the Trustee to the Company, Plan Administrator, Investment Manager or any Authorized Person shall be in writing and deemed to have been duly given as of the first date on which the Trustee transmits or otherwise makes the communication available. Except as the parties may otherwise agree in writing, all instructions, notices, and other communications to the Trustee shall be in writing and shall be deemed to have been given when received by the Trustee at the following address:

Newport Trust Company
c/o Newport Group, Inc.
ATTN: Newport Trust Company
45 South 7th Street
Suite 2208
Minneapolis, MN 55402
Fax: (916) 605-4024

- 17.11 Force Majeure. The Trustee shall have no liability for any losses arising out of delays in performing the services which it renders under this Agreement, when such delays result from events beyond its control, including without limitation, interruption of the business of the Trustee due to acts of God, acts of governmental authority, acts of war, terrorism, riots, civil commotions, insurrections, labor difficulties (including, but not limited to, strikes and other work slippages due to slow-downs), unauthorized access to its systems, or any action of any courier or utility, mechanical or other malfunction, or electronic interruption.
- 17.12 Confidentiality. The parties hereto agree that they and their directors, officers, employees, and other staff shall keep in confidence all information, data and records relating to the business and affairs of the other parties to this Agreement (collectively, "Confidential Information") that may be acquired pursuant to or in connection with this Agreement or the relationships contemplated by this Agreement. During and after the term of this Agreement, disclosure of Confidential Information shall be restricted to those employees of a party hereto with a need to know to fulfill that party's obligations under this Agreement. Confidential Information shall not be disclosed to a third party not otherwise authorized in the Agreement to receive such information, without the prior written permission of the owner of such Confidential Information. All parties hereto agree that they shall exercise the same care and diligence in protecting the Confidential Information of another party hereto as they would in the protection of its own confidential and proprietary information. The foregoing obligations shall not apply to Confidential Information that: (i) becomes known publicly through no fault of any party hereto; (ii) is received from a third party who is authorized to disclose it; (iii) is already known to the other party to this Agreement; or (iv) is independently developed by the other party to this Agreement.
- 17.13 Entire Agreement. This Agreement, including all documentation submitted in connection with the engagement of the Trustee, including any fee schedules, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
- 17.14 Status as Independent Contractors. Nothing in this Agreement shall cause or be deemed to cause any party (including, but not limited to, its officers, directors, or employees) to be an employee, partner, joint venture, or agent of any other party hereto. The sole relationship of the parties hereto is that of independent contractor.
- 17.15 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and no other counterpart need be produced. Telephonic or electronic facsimile copies of original signatures, writings or initials on this Agreement shall be valid as the original signatures, writings or initials.
- 17.16 Survival. The following provisions shall survive termination of this Agreement: **Article III** (Company Representations and Warranties), **Article XII** (Compensation and Expenses), **Section 13.02** (Successor), **Section 13.03** (Termination of Liability), **Article XV** (Limitation of Liability and Indemnification) and **Article XVII** (General).

[signatures on following page]

IN WITNESS WHEREOF, the Company and Trustee have caused this Agreement to be executed by their respective duly authorized officers on the date or dates shown below.

CITY OF SELMA

Signature: _____

Name: _____

Title: _____

Date: _____

NEWPORT TRUST COMPANY

Signature: _____

Name: _____

Title: Trust Officer

Date: _____

EXHIBIT A

The fees of Newport Trust Company ("NTC") are set forth in the Fee Schedule included with the Master Services Agreement between the Plan Sponsor and Newport Group, Inc.

1. It is agreed that any interest earned on cash balances maintained by NTC on behalf of the Plan, while awaiting instructions, shall accrue to the benefit of NTC. Plan Sponsor expressly acknowledges and agrees that NTC may retain as additional compensation for its services any earnings (generally determined daily and calculated on the basis of the then-current Federal Funds Rate) with respect to (a) amounts credited to non-interest bearing cash accounts; (b) moneys during the period between the time the moneys are received by NTC and actually forwarded to the investment provider; and (c) distributions between the time a distribution check is requested and the distribution check is presented for payment.

Moneys shall be invested as soon as practicable following receipt of the moneys and investment instructions, but not later than two business days following receipt of both the moneys and the investment instructions. Distribution checks shall be prepared and mailed as soon as practicable following receipt of a request for a distribution check, but not later than three business days following receipt of the request.

2. NTC fees do not include any brokerage or other sub-custodian commissions. They also do not include mutual fund sales charges/loads or brokerage commission of any other broker-dealer or mutual fund family. Any waiver of mutual fund sales charges/loads at the plan level is only based on the qualifications set forth in the fund's prospectus, as well as the completion by the plan sponsor of appropriate documentation if required by the fund's sponsor. NTC fees also do not include any fees charged by an Investment Manager/Consultant.

3. Annual Market Value fees cover:

Custody of Standard Assets and the services as described in NTC's agreement with the Plan Sponsor.

- Receipt of Plan Contributions
- Mutual Fund daily pricing and trade execution
- Dividend/Income Posting
- Monthly trust statements
- Electronically delivered annual trust report
- Mutual Fund revenue-sharing invoicing and collection
- Compliance with applicable fee disclosure requirements

4. Additional fees may be charged for:

- Extraordinary services for which other compensation is not expressly stated
- Checks received with insufficient funds
- Administration of special assets including transaction and outgoing wire charges for special assets
- Overnights

5. NTC reserves the right to periodically review the fees charged for acceptability based on the time/effort required to service the account, and to propose to the client changes in the fee agreement if needed. If fees are not paid within 90 days, NTC reserves the right to charge interest on the outstanding balance in the amount of 1.5% per month and/or deduct the outstanding amount directly from the account.

**ADOPTING RESOLUTION
FOR
CITY OF SELMA**

The undersigned authorized representative of City of Selma (the "Employer") hereby certifies that the following resolutions were duly adopted by the Employer on _____, and that such resolutions have not been modified or rescinded as of the date hereof.

WHEREAS, City of Selma 457(b) Plan (the "Plan and Trust") expressly provides the right to amend said Plan and Trust; and

WHEREAS, Employer desires to amend the Plan and Trust in order to appoint Newport Trust Company as nondiscretionary Trustee of the Plan and Trust subject to their acceptance, attached hereto; and

WHEREAS, Employer desires to remove and/or accept the resignation of the current trustee(s) of the Plan and Trust; and.

NOW THEREFORE BE IT RESOLVED, that Newport Trust Company is appointed to act as a non-discretionary Trustee of the trust established as part of the Plan and Trust and is authorized to hold the assets of the trust under the terms of the Trust Agreement entered into with Newport Trust Company; and

RESOLVED FURTHER, that the removal and resignation of the current trustee(s) of the Plan and Trust is hereby accepted, effective as of the final transfer of assets to Newport Trust Company; and

RESOLVED FURTHER, that the proper representatives of the Employer be, and hereby are, authorized and directed to execute such instruments and to perform such other acts as they, in their discretion, deem necessary or desirable to carry out these resolutions.

CITY OF SELMA

By: _____

Date: _____

Name: _____

Title: _____

AUTHORIZED SIGNERS

Plan Name: City of Selma 457(b) Plan (the "Plan")

In accordance with the provisions of the agreements entered into between Newport Trust Company and its affiliates ("Newport") and the Plan Sponsor, Newport may accept and act upon instructions on behalf of the Plan received from the Authorized Signers set forth below. By providing this form, the Plan Sponsor represents that this is a true and complete list of Authorized Signers with authority and capacity to act on behalf of the Plan, and acknowledges and agrees that it is the responsibility of the Plan Sponsor to notify Newport in writing of any future removals from or additions to its Authorized Signers List. In accordance with the indemnification provisions of the agreement entered with Newport, Newport shall not have liability for acting upon the instruction of any Authorized Signer who Newport has not been notified in writing is no longer an Authorized Signer for the Plan.

<p>Name: _____</p> <p>Signature: _____</p> <p>Corporate Title: _____</p> <p>Date: _____ Email: _____</p> <p>Capacity: <input checked="" type="checkbox"/> Plan Sponsor</p>	<p>Name: _____</p> <p>Signature: _____</p> <p>Corporate Title: _____</p> <p>Date: _____ Email: _____</p> <p>Capacity: <input checked="" type="checkbox"/> Plan Administrator (may be same as Sponsor)</p>
<p>Name: _____</p> <p>Signature: _____</p> <p>Corporate Title: _____</p> <p>Date: _____ Email: _____</p> <p>Capacity: <input type="checkbox"/> Plan Sponsor <input type="checkbox"/> Plan Administrator</p>	<p>Name: _____</p> <p>Signature: _____</p> <p>Corporate Title: _____</p> <p>Date: _____ Email: _____</p> <p>Capacity: <input type="checkbox"/> Plan Sponsor <input type="checkbox"/> Plan Administrator</p>
<p>Name: _____</p> <p>Signature: _____</p> <p>Corporate Title: _____</p> <p>Date: _____ Email: _____</p> <p>Capacity: <input type="checkbox"/> Plan Sponsor <input type="checkbox"/> Plan Administrator</p>	<p>Name: _____</p> <p>Signature: _____</p> <p>Corporate Title: _____</p> <p>Date: _____ Email: _____</p> <p>Capacity: <input type="checkbox"/> Plan Sponsor <input type="checkbox"/> Plan Administrator <input type="checkbox"/> Approval of Participant Level Transactions ONLY (i.e. hardship distributions, loans, etc.)</p>

Please complete additional forms if needed (NOTE: Plan Sponsor and Plan Administrator signature are required)

ADVISOR INFORMATION AND AUTHORIZATION

Plan Name: _____

Advisor Firm Name: _____ Advisor Contact : _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

☐ Commission Based

☐ Fee Based

➔ **Note:** Advisor compensation (i.e., 12(b)(1) fees, finder's fees, dealer concessions, commissions, or other asset-based advisor compensation) received by commission-based Plan investment advisors are not available for crediting to a RHA or Plan Assets. Fields below are only required if Advisor compensation is commission-based.

Broker ID# _____ Branch # _____ CRD# _____ NSCC# _____

Firm CRD# _____ Shell # _____ Channel # (Wells Fargo Only) _____

Section I – Authorization for Newport Trust Company (“Newport Trust”) Regarding Investment Direction (select A and/or B, as applicable):

A. Investment Authorization – ☐ Yes ☐ No

If yes, Newport Trust is hereby authorized and directed to act in accordance with instructions communicated through the Advisor listed above with respect to the investment of the Plan assets, including changes thereto, until such time as Newport Trust Company shall have received from Plan Sponsor written notice that the Advisor is no longer authorized to communicate investment instructions with respect to the Plan.

The Investment Authorization elected above shall apply to the Advisor Contact listed above and, if elected below, the Advisor Firm:

☐ Advisor Firm Authorization

B. ERISA 3(38) Investment Manager Authorization – ☐ Yes ☐ No

If yes, the undersigned Plan Sponsor (“Plan Sponsor”) represents and warrants to Newport Trust that the Advisor Firm named above (the “Investment Manager”) has been duly appointed by the Plan as an “investment manager” as defined in Section 3(38) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), or, if the Plan is not subject to ERISA, as having discretionary authority to make investment decisions regarding Plan assets equivalent to the authority of an ERISA investment advisor. Newport Trust is hereby authorized and directed to act in accordance with instructions from the Investment Manager with respect to the investment of Plan assets until such time as Newport Trust shall have received from Plan Sponsor written notice that the Investment Manager is no longer authorized to act as the investment manager of the Plan.

Section II – Advisor Compensation – Fee Based Only

A. ☐ Initial Election ☐ Change Election – Anticipated Effective Date of Change _____

Note: the Effective Date of such change is subject to the Participant disclosure requirements of ERISA (i.e. 30-day advance notice).

B. ☐ Calculated by Newport Group and Paid through NG ☐ Calculated by Advisor and Paid through NG ☐ Direct Bill Sponsor

SKIP to Section III if Direct Bill Sponsor is chosen.

C. Billing Period: ☐ Arrears ☐ Advance

D. ☐ Include SDBA Assets in end of period asset value (If this box is unchecked, SDBAs will be excluded)

E. Fee 1: Flat Annual Amount: _____ Flat Annual Rate (bps): _____ Scale: ☐

Scale Type: ☐ Breakpoint – one rate based on assets

☐ Sliding Scale – rate for each asset tier

Sample Breakpoint Scale		
Lower Limit	Upper Limit	Rate
0	\$10,000,000	50 bps
\$10,000,000	+	25 bps
If plan has 11,000,000 in assets then the fee would be 25 bps		

Sample Tiered Scale		
Lower Limit	Upper Limit	Rate
0	\$10,000,000	50 bps
\$10,000,000	+	25 bps
If plan has 11,000,000 in assets then the first \$10m would be 50 bps and anything over \$10m would be 25 bps		

Lower Limit	Upper Limit	Rate

F. Fee Payment Elections. The Company directs Newport to pay advisory fees in the following manner:
In the following table, please indicate the Company's preference order for payment of advisory fees by payment source (1, 2, or N/A). If fee is to only be paid from a single source, use a 1 to make this designation under the appropriate source.

Plan Pro Rata means the fee will be allocated in proportion to Plan Participant account balances.

May choose one of more of the below options		Must be chosen
(A) Forfeitures ¹	(B) RHA ²	(C) Plan Pro Rata
		X

¹ Plan Document must allow for payment of fees from forfeitures.

² Plan Sponsor must have elected to establish a RHA.

G. Will fee be prorated? (Select one) ☐ Yes – complete section H ☐ No – skip to Payment Method

If left unchecked, or "No" is selected then payment will be processed the next full quarter after a new plan is out of conversion or after the effective date of change for existing plans.

H. First Payment: prorate based on option selected below. Only choose one option under Start-Up or Takeover plan.

Start-Up Plan: ☐ date first payroll received ☐ custom period ____/____/____ to ____/____/____

Takeover Plan: ☐ earlier of date first payroll received or asset wire received date.

☐ custom period ____/____/____ to ____/____/____

Existing Plan: ☐ custom period ____/____/____ to ____/____/____

If "yes" is checked in section G. and no selection is made in section H then payment will be processed the next full quarter after a new plan is out of conversion or after the effective date of change for existing plans.

Plan Sponsor agrees to pay the Advisor fees from the Plan's assets as elected above. If no elections made, the Advisor's fees will be billed direct and not paid from Plan Assets.

Section III - General

Plan Sponsor acknowledges and agrees that neither Newport Trust nor Newport shall have any discretionary control over, or any other discretion regarding, the investment of assets of the Plan, and that it shall be the responsibility of the Plan Sponsor and/or any Investment Manager to establish investment and diversification policies with respect to the investment of Plan assets, to monitor adherence to such policies, and to advise Newport Trust and Newport with respect to its compliance with any investment limitations contained in the Plan. Plan Sponsor represents and warrants that it has determined that each Advisor identified above is, and so long as this authorization is effective shall remain, qualified and licensed as required by all applicable laws to act in accordance with the foregoing authorization.

To the full extent permitted by applicable law, neither Newport Trust nor Newport shall have any duty to inquire whether instructions given by an Advisor or any Investment Manager conform to the Plan or applicable law, including, but not limited to Section 404(c) of ERISA, and no liability or responsibility for actions taken in accordance with such instructions, or for failing to act in the absence of such instructions. Plan Sponsor represents and warrants that it has full power and authority under applicable law, and has taken all action necessary, to give the authorization specified above, and that the person signing below is duly authorized and empowered to execute and deliver this authorization and direction.

PLAN SPONSOR:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

- Advisor payment information on next page.

Plan Name: _____

Fee Payment Advice Form

The advisor / advisor firm directs Newport Group to send payment per the direction below:

Payment Method:

ACH:

ACH Consumer Written Authorization Requirements are available at:

<https://www.newportgroup.com/electronic-signature/>

Plan Sponsor authorizes Newport Group, Inc. ("Newport") to initiate credit entries to the account noted below and to credit the same to such account under U.S. law:

Name of Depository Financial Institution: _____

Financial Institution Street Address: _____ City/State/Zip: _____

Bank Account Number: _____ Bank Routing Number: _____

Type of Account: ☐ Checking ☐ Savings

Check:

Payee Name: _____

Street Address: _____ City/State/Zip: _____

The Third Party Billing Authorization Terms and Conditions and additional authorization forms are available at:

<https://www.newportgroup.com/electronic-signature/>

Advisor:

Signature: _____

Printed Name: _____

Advisor Firm: _____

Date: _____

457 Deferred Compensation Plan Investment Advisor Agreement

The Plan Sponsor, City of Selma, California, as the responsible plan fiduciary for the Plan (the fiduciary with authority to cause the plan to enter into the arrangement), engages the Investment Adviser (Strategic Retirement Advisors) to provide the services described in this Agreement.

(A) Fiduciary Authority. The Plan is a participant-directed plan and the Plan Sponsor has the authority to designate investment alternatives under the Plan and the related trust, and to enter into an Agreement with third parties to assist in these and related duties. In this capacity, the Plan Sponsor (or, to the extent the Plan Sponsor has delegated its investment authority to an investment committee, the committee) is referred to as the Client.

Services. Adviser agrees to provide the following services (collectively, “Services”) to Client, the Plan and the Plan participants:

Description of services provided by Strategic Retirement Advisors:

- Analysis of the plan participant’s current financial condition, goals and objectives
- Ongoing monitoring of your investment portfolio during scheduled individual meetings
- A wide range of investment choices focused on no-load funds with no conflict of interest regarding the suggestions made
- Design of an investment portfolio appropriate to your individual circumstances, goals, risk tolerance, investment experience and time horizon
- Single point of contact for your investments accountable to you
- Objective investment advice not limited to any single investment company or single family of funds. No financial incentive exists to recommend a particular investment vehicle.
- Regular custodian statements on the status of your investment portfolio
- Full internet access to your account information, balances and transactions
- Recommendations regarding investment repositioning and current opportunities for new investments
- The availability of a personal financial advisor to answer your questions in a timely and appropriate manner
- Future value illustrations based on generally accepted investment principles

(A) **Fiduciary Services:** Adviser will perform the Fiduciary Services described in Appendix A.

- (B) Non-Fiduciary Services: Adviser will perform the Non-Fiduciary Services described in Appendix B.
- (C) Client acknowledges that Adviser has no responsibility to provide any services related to the following types of assets: employer securities; real estate (except for real estate funds and publicly traded REITs); stock brokerage accounts or mutual fund windows; participant loans; non-publicly traded partnership interests; other non-publicly traded securities or property (other than collective trusts and similar vehicles); or other hard-to-value or illiquid securities or property (collectively, "Excluded Assets").

(B) Fees.

- (A) The compensation of the Adviser for the Services is described in Appendix C.
- (B) The Plan is obligated to pay the fees described in Appendix C. However, the Plan Sponsor, at its option, may choose to pay the fees.
- (C) Adviser does not reasonably expect to receive any other compensation directly for its Services under this Agreement. If Adviser receives any direct or indirect compensation for such services, Adviser will disclose such compensation, the services rendered for such compensation, the payer of such compensation and a description of Adviser's arrangement with the payer to Client pursuant to the terms of section 4(C) of this Agreement.
- (D) Revenue Sharing Fees. Mutual fund companies which offer mutual funds will sometimes pay various fees from the funds to service providers such as brokers, dealers, transfer agents and custodians for services for the fund such as marketing, distribution, share transfers and shareholder services. These fees are generally referred to as "Revenue Sharing Fees" and may include sub-transfer agent fees, SEC 12b-1 fees and other fund administration fees. The recordkeeper and custodian for client plans may receive payments of Revenue Sharing Fees on behalf of the plans.
- (E) Use and Payment of Fees. All Revenue Sharing Fees received by the recordkeeper will be deposited into an account maintained for the relevant plan to be applied as directed by the fiduciary or sponsor of the plan. As such, the Revenue Sharing Fees are available to the Plans to be (1) paid to the plan trust to be allocated among the participants in the plan as directed by the fiduciary or sponsor of the plan, and/or (2) to pay administrative expenses of the plan, which may include but are not limited to recordkeeping fees, custodian and trustee fees, TPA fees, consulting fees related to the plan, investment related services including registered investment advisor fees, participant communication and education expenses, legal fees, audit fees, and actuarial fees (as applicable). If the fiduciary or the sponsor of the plan directs Strategic Retirement Advisors to pay the Revenue Sharing Fees against expenses, it

shall be deemed to warrant that the expenses are proper expenses for the administration of the plan. If the fiduciary or sponsor of the plan directs Strategic Retirement Advisors to pay the Revenue Sharing fees to the plan trust to be allocated among the participants in the plan, then the sponsor or fiduciary shall direct or shall have directed Strategic Retirement Advisors on how the payment is to be allocated among the participants in the plan. The fiduciary and sponsor of the plan are advised to consult with the legal and tax advisors for the plan. If the Revenue Sharing Fees are paid against administrative expenses of the plan, it shall be solely the obligation of the sponsor or fiduciary of the plan to notify the recordkeeper of all expenses so paid.

- (C) Strategic Retirement Advisors does not determine and cannot control the amount and timing of the payments of Revenue Sharing Fees and, accordingly, it shall not be responsible for ensuring the payment of Revenue Sharing Fees by the mutual fund company or the custodian. However, Strategic Retirement Advisors will disclose all Revenue Sharing Fees received on behalf of a Plan. On an annual basis, the recordkeeper will process all Fees in the manner directed by the fiduciary or sponsor of the plan.

Revenue Sharing Directions

- (D) The Trustee(s), Plan Sponsor, and Plan Administrator for the Plan hereby agree to indemnify Strategic Retirement Advisors from any claims related to the payment of Revenue Sharing Fees on behalf of the Plan as directed by the sponsor or fiduciary of the Plan or an agent for the sponsor or fiduciary of the Plan. Strategic Retirement Advisors will disclose all Fees received, as is, and will pay out or allocate Fees received according to the specific direction of the sponsor or fiduciary of the Plan.

- (E) Representations of Adviser. Adviser represents as follows:

- (A) It is registered as an investment adviser under [the Investment Advisers Act of 1940 OR under the laws of the state of California.
- (B) In performing the Fiduciary Services, it is acting as a fiduciary of the Plan under the Employee Retirement Income Security Act ("ERISA") for purposes of providing non-discretionary investment advice only.
- (C) It will disclose, to the extent required by ERISA Regulation Section 2550.408b-2(c), to Client any change to the information in this Agreement required to be disclosed by Adviser under ERISA Regulation Section 2550.408b-2(c)(1)(iv)(A) through (D) and (G) as soon as practicable, but no later than sixty (60) days from the date on which Adviser is informed of the change (unless such disclosure is precluded due to extraordinary circumstances beyond Adviser's control, in which case the information will be disclosed as soon as practicable).³

- (D) If the responsible plan fiduciary or Plan Administrator requires information related to this agreement and any compensation or fees received in connection with this Agreement in order for the Plan to comply with the reporting and disclosure requirements of Title I of ERISA and the regulations, forms and schedules issued thereunder, it shall make a written request to Adviser at least thirty (30) days in advance of the due date for such reporting and disclosure. Upon receipt of such written request and in accordance with ERISA Regulation Section 2550.408b-2(c)(1)(vi)(A), Adviser will disclose such information reasonably in advance of such due date, unless such disclosure is precluded due to extraordinary circumstances beyond the Adviser's control, in which case the information will be disclosed as soon as practicable.
- (E) If Adviser makes an unintentional error or omission in disclosing the information required under ERISA Regulation Section 2550.408b-2(c)(1)(iv), a change to such information pursuant to ERISA Regulation Section 2550.408b-2(c)(1)(v)(B), or information required under ERISA Regulation Section 2550.408b-2(c)(1)(vi) adviser will disclose to Client the corrected information as soon as practicable, but no later than thirty (30) days from the date on which Adviser learns of such error or omission.

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(F) Client Acknowledgements. Client acknowledges that:

- (A) It has retained, and will exercise, final decision-making authority and responsibility for the implementation of any recommendations or advice rendered to Client by Adviser.
- (B) It is the intention of the Client not to bear any of the cost of operating the Plan (unless in its discretion, it decides to do so). Accordingly, when rendering Fiduciary Services, Adviser is hereby directed to recommend investment alternatives that will pay, directly or indirectly, amounts to or on behalf of the Plan to cover all or most of the expenses of the Plan, unless (1) it is otherwise specifically directed by the Client or (2) it is clearly imprudent to do so.
- (C) In performing the Non-Fiduciary Services, Adviser is not acting as a fiduciary of the Plan as defined in ERISA.
- (D) In performing both Non-Fiduciary Services and Fiduciary Services, Adviser does not act as, nor has Adviser agreed to assume the duties of, a trustee or the Plan Administrator, as defined in ERISA, and Adviser has no discretion over the investment of Plan assets or to interpret the Plan documents, to determine eligibility or participation under the Plan, or to take any other action with respect to the management, administration or any other aspect of the Plan.
- (E) Adviser does not provide legal or tax advice.
- (F) Investments are subject to various market, political, currency, economic, and business risks, and may not always be profitable; and further that Adviser does not and cannot guarantee financial or investment results.
- (G) Adviser (i) may perform other services for other clients, (ii) may charge a different fee for other clients, and that Adviser (iii) may give advice and take action that is different for each client even where retirement plans are similar.
- (H) Adviser may, by reason of performing services for other clients, acquire confidential information. Client acknowledges and agrees that Adviser is unable to divulge to the Client or any other party, or to act upon, any such confidential information with respect to its performance of this Agreement.
- (I) Adviser is entitled to rely upon all information provided to Adviser, whether financial or otherwise, from reputable third parties or by Client, Client's representatives or third-party service providers to Client, the Plan, or the Adviser without independent verification. Client agrees to promptly notify Adviser in

writing of any material change in the financial and other information provided to Adviser and to promptly provide any such additional information as may be reasonably requested by Adviser.

- (J) Adviser will not be responsible for voting (or recommending how to vote) proxies of the mutual fund shares held by the Plan (or its trust). Responsibility for voting proxies of investments held by the Plan or its trust remain with Client (or, if applicable, the Plan participants).

(G) Representations of Client. Client represents and warrants as follows:

- (A) It is the "responsible plan fiduciary" for the control and/or management of the assets of the Plan, and for the selection and monitoring of service providers for the Plan, in accordance with the requirements of ERISA. Adviser is entitled to rely upon this statement until notified in writing to the contrary.
- (B) The execution of this Agreement and the performance thereof is within the scope of authority authorized by the governing instrument of the Plan and applicable laws. The signatory on behalf of Client represents that (i) the execution of the Agreement is authorized, (ii) the signator has authority to execute the Agreement on behalf of the plan, and (iii) it will provide supporting documentation as may be reasonably required by Adviser.
- (C) Upon request, Client shall deliver to Adviser copies of the plan documents, including any and all amendments thereto, and shall provide Adviser with copies of any subsequent amendments or restatements of those documents.
- (D) The Plan and related Trust permit payment of Fees out of Plan assets. Client has determined that the Fees charged by Adviser are reasonable and, if paid out of Plan assets, are a proper obligation of the Plan.

(H) Standard of Care.

- (A) Adviser will perform the Fiduciary Services described in Appendix A in accordance with the prudent man rule set forth in ERISA section 404(a)(1)(B).
- (B) Adviser will perform the Non-Fiduciary Services described in Appendix B and shall not be liable for any liabilities and claims arising thereunder unless directly caused by Adviser's intentional misconduct or gross negligence.

- (I) Receipt of Disclosure. Client agrees to review and consider the disclosures made by Adviser (including in this Agreement and the Form ADV Part 2), in particular the portions related to services, compensation, and potential conflicts of interest, as well as the remainder of the disclosures concerning, among other matters, background information such as educational and business history, business practices such as the types of advisory services provided, the

methods of securities analysis used, and the like. Client acknowledges receipt of this Agreement and Adviser's Form ADV Part 2 reasonably in advance of entering into this Agreement.

- (J) Termination. Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to such termination, and such liabilities and obligations shall survive any expiration or termination of this Agreement. Upon the effective date of termination, Adviser will have no further obligation under this Agreement to act or advise Client with respect to Services under this Agreement.

(K) Miscellaneous.

- (A) Notices. Any and all notices required or permitted under this Agreement shall be in writing and shall be sufficient in all respects if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested and postage prepaid, (iii) sent via a nationally recognized overnight courier service to the address on the first page of this Agreement, or such other address as any party shall have designed by notice in writing to the other party, or (iv) as otherwise mutually agreed by the parties.

In addition, Client agrees to accept electronic communication of any notice, advice, disclosure, or report in lieu of a printed copy.¹⁰

Electronic Communications: Client expressly agrees to accept electronic communication of any notice, advice, or report in lieu of a printed copy, including applicable disclosure documents and disclosures required under ERISA section 408(b)(2) at the email address listed above or such other email address as Client may designate in writing to Adviser. Client may revoke this consent at any time by providing notice to Adviser.

- (B) Assignability. This Agreement is not assignable by either party hereto without the prior written consent of the other party.
- (C) Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, survivors, administrators and assigns.
- (D) Entire Understanding and Modification. This Agreement constitutes and contains the entire understanding between the parties and supersedes all prior oral or written statements dealing with the subject matter herein. This Agreement can be amended or modified by the written consent of the parties.

- (E) Severability. If any one or more of the provisions of this Agreement shall, for any reason, be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be enforced as if such illegal or invalid provision had not been contained herein.
- (F) Applicable Law; Forum. The laws of the State of California shall govern this Agreement in all respects, including but not limited to the construction and enforcement thereof, unless preempted by ERISA or other federal law.
- (G) Arbitration Agreement. To the extent permitted by law, all controversies between Client and Adviser, which may arise out of or relate to any of the Services provided by Adviser under this Agreement, or the construction, performance or breach of this or any other Agreement between Adviser and Client, whether entered into prior to, on or subsequent to the date hereof, shall be settled by binding arbitration in Sacramento, California County of Sacramento under the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any award rendered by the arbitrator(s) shall be final, and may be entered into any court having jurisdiction.
- (H) Amendment Process. The Agreement may be modified by written consent of both parties.
- (I) Waiver of Limitation. Nothing in this Agreement shall in any way constitute a waiver or limitation of any rights which Client or Plan or any other party may have under ERISA or federal or state securities laws.

This Agreement constitutes both an agreement between the parties and a disclosure statement under ERISA Regulation section 2550.408b-2. The parties have caused this Agreement to be executed by their duly authorized officers. This Agreement shall not be binding on Adviser until accepted by it, in writing, as indicated by its signature below.

Plan Sponsor:

____ City of Selma, California ____

By: _____

Print Name: _____

Title: _____

Date: _____

Adviser:

Strategic Retirement Advisors, LLC ____
[Adviser Firm Name]

By: _____

Title: _____

Date: _____

APPENDIX A

FIDUCIARY SERVICES

The Adviser will perform the following Fiduciary Services:

- (i) Provide non-discretionary investment advice to the Client about asset classes and investment alternatives available for the Plan in accordance with the Plan's investment policies and objectives. Client shall have the final decision-making authority regarding the initial selection, retention, removal and addition of investment options.
- (ii) Assist the Client with the selection of a broad range of investment options consistent with ERISA section 404(c) and the regulations thereunder.
- (iii) Assist the Client in the development of an investment policy statement (IPS). The IPS establishes the investment policies and objectives for the Plan. Client shall have the ultimate responsibility and authority to establish such policies and objectives and to adopt and amend the investment policy statement.
- (iv) Assist in monitoring investment options by preparing periodic investment reports that document investment performance, consistency of fund management and conformance to the guidelines set forth in the IPS and make recommendations to maintain or remove and replace investment options.
- (v) Meet with Client on a periodic basis to discuss the reports and the investment recommendations.
- (vi) Provide non-discretionary investment advice to the Plan Sponsor with respect to the selection of a qualified default investment alternative ("QDIA") for participants who are automatically enrolled in the Plan or who otherwise fail to make an investment election. The Client retains the sole responsibility to provide all notices to participants required under ERISA section 404(c)(5).

APPENDIX B

NON-FIDUCIARY SERVICES

The Adviser will perform the following Non-Fiduciary services:

- (i) Assist in the education of the participants in the Plan about general investment principles and the investment alternatives available under the Plan. Client understands that Adviser's assistance in participant investment education shall be consistent with and within the scope of (d) (i.e., the definition of investment education) of Department of Labor Interpretive Bulletin 96-1. As such, the Adviser is not providing fiduciary advice (as defined in ERISA) to the participants. Adviser will not provide investment advice concerning the prudence of any investment option or combination of investment options for a particular participant or beneficiary under the Plan.
- (ii) Assist in the group enrollment meetings designed to increase retirement plan participation among employees and investment and financial understanding by the employees.

Adviser may provide these services or, alternatively, may arrange for the Plan's other providers to offer these services, as agreed upon between Adviser and Client.

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APPENDIX C:

FEE SCHEDULE

- (i) Client elects and authorizes to have Fees paid as follows:

☐ Billed Directly to Client;

☐ Deducted from Plan assets

Fees are billed quarterly in arrears. Such billing period is the "Fee Period." For purposes of determining and calculating Fees, Plan assets are based on Included Assets.

- (ii) If Client elects to have fees deducted from Plan Assets, Client grants Adviser the authority to have fees that are chargeable to the Plan automatically deducted from the Plan's accounts held by the recordkeeper (or other custodian of Plan assets, herein referred to as the "Recordkeeper") and paid directly to Adviser upon Recordkeeper's receipt of the billing notice. A quarterly statement setting forth the fees deducted from the Plan (as well as identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period) shall be provided to the Plan by the Recordkeeper. Client is responsible for ensuring that such statement is provided.

- (iii) The annual fee for Fiduciary Services shall be calculated as follows:

Option 1: Annual fee of 75 basis points (or 0.75%) per year.

Option 2: Flat fee of \$_____ per year.

Option 3: Flat fee of \$_____ per year. This flat fee will be automatically increased _____% on each anniversary of the effective date of this Agreement.

- (iv) The annual fee will be based upon the market value of the Plan assets on the last business day of the previous Fee Period (without adjustment for anticipated withdrawals by Plan participants or other anticipated or scheduled transfers or distributions of assets) and will be due the following business day. If this Agreement is terminated prior to the end of a Fee Period, Adviser shall be entitled to a fee, prorated for the number of days in the Fee Period prior to the effective date of termination. Any unearned fee shall be returned by Adviser.

Market value of Plan assets means the value of assets as reported by the custodian or recordkeeper.

CHECK REGISTER REPORT

CHECK NUMBER	CHECK DATE	STATUS	VENDOR NAME	CHECK DESCRIPTION	CATEGORY	AMOUNT
74782	04/24/2020	Printed	AIRGAS USA LLC	OXYGEN CYLINDER RENTAL		528.45
74783	04/24/2020	Printed	MARK ALVES / ALVES ELECTRIC	RUN POWER TO NEW PRESSURE WASHER		525.00
74784	04/24/2020	Printed	ARAMARK UNIFORM	UNIFORMS/TOWELS/FIRST AID KITS		289.55
74785	04/24/2020	Printed	ASBURY ENVIRONMENTAL SERVICES	USED OIL DISPOSAL		165.00
74786	04/24/2020	Printed	AT&T	INTERNET SERVICE 4/11-5/10/20		42.80
74787	04/24/2020	Printed	AT&T	TELEPHONE 3/1-3/31/20		655.29
74788	04/24/2020	Printed	AT&T	TELEPHONE 3/4-4/3/20		1,404.14
74789	04/24/2020	Printed	AT&T	TELEPHONE 3/4-4/3/20		152.17
74790	04/24/2020	Printed	AT&T	TELEPHONE 3/4-4/3/20		146.31
74791	04/24/2020	Printed	AT&T	TELEPHONE 3/12-4/11/20		61.55
74792	04/24/2020	Printed	AT&T MOBILITY	TELEPHONE -MDT'S 3/1-3/31/20		437.51
74793	04/24/2020	Printed	CESAR F. BEJARANO / RAPID JUNK REMOVAL	CLEAN UP 2695 ROSE AVE.	R	650.00
74794	04/24/2020	Printed	CENDA BRIDGER	SENIOR TRIP REIMBURSEMENT		145.00
74795	04/24/2020	Printed	JAY WESLEY BROCK / TOP DOG TRAINING CENTER	K9 MAINTENANCE TRAINING 4/6/20		270.00
74796	04/24/2020	Printed	ROD CARSEY	PLAN CHECKS-MARCH 2020		1,223.70
74797	04/24/2020	Printed	ANDREA CASTELLANOS	DISMISSAL ADMIN CITE 10181		100.00
74798	04/24/2020	Printed	CENTRAL VALLEY TOXICOLOGY INC.	DRUG TESTING CS# 20-1040		215.00
74799	04/24/2020	Printed	COMCAST	INTERNET SERVICE -APRIL 20		821.45
74800	04/24/2020	Printed	COMCAST	PD TO FCSO -APRIL 20		675.02
74801	04/24/2020	Printed	COOK'S COMMUNICATION CORP	RADIOS FOR AMBULANCE		4,046.46
74802	04/24/2020	Printed	COUNTY OF FRESNO	RMS/JMS/CAD ACCESS FEES-MAR 20		494.84
74803	04/24/2020	Printed	DATAPATH LLC	WINDOWS 10 PRO-UPGRADE & REMOTE DESKTOP SERVICE LICENSE		1,586.33
74804	04/24/2020	Printed	DEPARTMENT OF HEALTH CARE	AMBULANCE OVERPAYMENT REIMB		106.38
74805	04/24/2020	Printed	DEPARTMENT OF JUSTICE	FINGERPRINTS -MARCH 20		624.00
74806	04/24/2020	Printed	DEPARTMENT OF TRANSPORTATION	SIGNALS & LIGHTING JAN-MAR 20		2,257.51
74807	04/24/2020	Printed	DUNCAN ENTERPRISES	SUPPLIES FOR SENIOR CERAMICS	R	69.14
74808	04/24/2020	Printed	FAMILY HEALTHCARE NETWORK	DRUG TEST -TRANSIT		25.01
74809	04/24/2020	Printed	FEDEX	POSTAGE-ABC GRANT DOCS		29.86
74810	04/24/2020	Printed	FRESNO COMMUNITY HOSPITAL	SAFE EXAM 19-4681		900.00
74811	04/24/2020	Printed	FRUSA EMS LLC	AMBULANCE BILLING -MARCH 20		15,083.55
74812	04/24/2020	Printed	ROBERT GAMBOA	SENIOR TRIP REIMBURSEMENT		180.00
74813	04/24/2020	Printed	GAR BENNETT LLC	IRRIGATION SUPPLIES -SHAHER		65.10
74814	04/24/2020	Printed	GCS ENVIRONMENTAL EQUIPMENT	GUTTER BROOM MOTOR & PEDESTAL MOUNT UNIT#1315		718.00
74815	04/24/2020	Printed	JESSE GOMEZ	REIMBURSEMENT FOR TAC BAGS		184.97
74816	04/24/2020	Printed	GOVERNMENT REVENUE SOLUTIONS	SUTA SERVICES QTR END 9/30/19		1,071.07
74817	04/24/2020	Printed	NICOLE GUTIERREZ	T-BALL REIMBURSEMENT		50.00
74818	04/24/2020	Printed	HEALTHEDGE ADMINISTRATORS INC.	DENTAL 3/25/20		1,419.30
74819	04/24/2020	Printed	HEALTHEDGE ADMINISTRATORS INC.	DENTAL 4/1/20		938.00
74820	04/24/2020	Printed	HEALTHEDGE ADMINISTRATORS INC.	DENTAL 4/8/20		432.90
74821	04/24/2020	Printed	HEALTHEDGE ADMINISTRATORS INC.	DENTAL 4/15/20		106.00
74822	04/24/2020	Printed	HEALTHEDGE ADMINISTRATORS INC.	ADMINISTRATIVE FEES -MAY 20		795.93
74823	04/24/2020	Printed	HEALTHWISE SERVICES, LLC.	KIOSK MEDICAL WASTE SERVICES		150.00
74824	04/24/2020	Void			0.00	
74825	04/24/2020	Printed	HENRY SCHEIN INC.	MEDICAL SUPPLIES		2,586.32
74826	04/24/2020	Printed	RAUL R HERRERA JR / ECN POLYGRAPH & INVESTIGATIONS	POLYGRAPH SERVICE 3/31/20		400.00
74827	04/24/2020	Printed	JOHN GARI HOSTETLER	POLICE ACADEMY CADET MONTHLY STIPEND -MARCH & APRIL 2020		1,000.00
74828	04/24/2020	Printed	JAM SERVICES, INC.	WASHINGTON SCHOOL XING RRFB		3,547.13
74829	04/24/2020	Printed	JORGENSEN & COMPANY	ANNUAL FIRE EXT MAINT-CH/ANNEX		90.00
74830	04/24/2020	Printed	SUBEH KHALED JOWAD	DISMISSAL ADMIN CITE 10375		100.00
74831	04/24/2020	Printed	KINGSBURG VETERINARY CLINIC	K9 VACCINATIONS & SPAY	R	334.34
74832	04/24/2020	Printed	KRAZAN & ASSOCIATES, INC.	ASBESTOS SURVEY-FIRE TRAINING FACILITY		300.00

CHECK REGISTER REPORT

CHECK NUMBER	CHECK DATE	STATUS	VENDOR NAME	CHECK DESCRIPTION	CATEGORY	AMOUNT
74833	04/24/2020	Printed	TIM J LAW / LAW & ASSOCIATES	LAW ENFORCEMENT BACKGROUND		700.00
			INVESTIGATORS			
74834	04/24/2020	Printed	LEE CENTRAL CALIFORNIA	EMPLOYMENT AD-POLICE ADMIN & TRANSIT		1,006.32
74835	04/24/2020	Printed	LIFE-ASSIST INC.	MEDICAL SUPPLIES		850.10
74836	04/24/2020	Printed	LOGISTICARE	AMBULANCE OVERPAYMENT REIMB		346.10
74837	04/24/2020	Printed	HEATHER MCCOY	VICTIM EXAM 20-1040		1,000.00
74838	04/24/2020	Printed	MEDICARE NORTHERN CALIFORNIA	AMBULANCE OVERPAYMENT REIMB		195.27
74839	04/24/2020	Printed	METRO UNIFORM	POLICE REVOLVING ACCT	R	414.69
74840	04/24/2020	Printed	MID VALLEY PUBLISHING, INC.	EMPLOYMENT ADS -PD ADMIN		100.00
74841	04/24/2020	Printed	RAYMOND MURO	DISMISSAL ADMIN CITE 10189		100.00
74842	04/24/2020	Void			0.00	
74843	04/24/2020	Printed	OFFICE DEPOT, INC.	OFFICE SUPPLIES		1,497.23
74844	04/24/2020	Printed	BRITTNAY PADILLA	T-BALL REIMBURSEMENT		100.00
74845	04/24/2020	Printed	PG&E	UTILITIES -APRIL 2020		20,823.49
74846	04/24/2020	Printed	PRECISION EMPRISE LLC	DOWNTOWN SIDEWALK REPAIRS		1,000.00
74847	04/24/2020	Printed	QUAD KNOPF, INC.	ON-CALL PLANNING SERVICES 2/23-3/21/20		19,190.10
74848	04/24/2020	Printed	GERALD REESER	REIMBURSEMENT FOR PARAMEDIC RECERT		200.00
74849	04/24/2020	Printed	JUANITA REYES	T-BALL REIMBURSEMENT		50.00
74850	04/24/2020	Printed	ISAAC ROMERO	T-BALL REIMBURSEMENT		50.00
74851	04/24/2020	Printed	SECOND CHANCE ANIMAL SHELTER	MONTHLY SUPPORT -MAY 2020		7,925.80
74852	04/24/2020	Printed	SELMA UNIFIED SCHOOL DISTRICT	FUEL -MARCH 2020		15,247.05
74853	04/24/2020	Printed	SEQUOIA SAFETY COUNCIL, INC.	AMBULANCE OVERPAYMENT REIMB		200.00
74854	04/24/2020	Printed	SIERRA SOTO	T-BALL REIMBURSEMENT		50.00
74855	04/24/2020	Printed	SOUTH COUNTY VETERINARY	MONTHLY FREEZER USE -MAR 20		175.00
74856	04/24/2020	Printed	SPARKLETTS	WATER SERVICE		222.64
74857	04/24/2020	Printed	STERICYCLE, INC.	STERI-SAFE OSHA COMPLIANCE -APR 20		172.61
74858	04/24/2020	Printed	SUN LIFE	EMPLOYEE INSURANCE -MAY 20		1,543.34
74859	04/24/2020	Printed	TAG-AMS, INC.	EMPLOYEE DRUG TESTING		655.00
74860	04/24/2020	Printed	TELEFLEX LLC	MEDICAL SUPPLIES		1,188.64
74861	04/24/2020	Printed	THE CALIFORNIA PEACE OFFICERS'	LSP FOR REID		500.00
74862	04/24/2020	Printed	THE CRISCOM COMPANY	SEWER INFRASTRUCTURE -MAY 20		4,500.00
74863	04/24/2020	Printed	THE HARTFORD	2020/21 EMP DISHONESTY POLICY		2,589.00
74864	04/24/2020	Printed	UNITED AGRICULTURE	AMBULANCE OVERPAYMENT REIMB		933.92
74865	04/24/2020	Printed	UNITY IT	MDT MANAGED SERVICES -DEC 19		2,495.50
74866	04/24/2020	Printed	SAMANTHA MOREE VALLES	SEUSICAL KIDS PROJECTION		350.00
74867	04/24/2020	Printed	VALLEY SHREDDING LLC	DOCUMENT DESTRUCTION SERVICE		180.00
74868	04/24/2020	Printed	VANIR CONSTRUCTION	POLICE DEPT CONSTRUCTION	PDSA	35,367.30
				MANAGEMENT 3/1-3/31/20		
74869	04/24/2020	Printed	VIDEO INSPECTION SPECIALISTS	STORM DRAIN VIDEO INSPECTIONS		28,225.00
74870	04/24/2020	Printed	VINCENT COMMUNICATIONS INC	RADIOS		8,979.57
74871	05/06/2020	Printed	CONSTAR SUPPLY	CORE DRILL COMBO KIT FOR TRUCKER ST		4,242.33
					TOTAL	211,566.08

Grant: G PD State Appropriation: PDSA (457) Reimbursement: R

PAYROLL TRANSACTIONS

CHECK REGISTER

Date	Check No.	Amount
5/1/2020	116050-116060	\$8,346.25

Remittance Checks

Date	Check No.	Amount
5/1/2020	116061-116068	\$18,603.18

ACH Payment

Date	Description	Amount
5/1/2020	PR MAY 1 20	\$166,346.57

**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

May 18, 2020

ITEM NO: 2.

SUBJECT: Consideration of a resolution approving a Facilities Use Agreement with the Selma Health Care District for use of Senior Center and a request for fee waiver regarding same

RECOMMENDATION: Staff recommends that Council adopt the Resolution approving the Facilities Use Agreement and related fee waiver.

DISCUSSION: The Selma Health Care District is requesting consideration to extend use of the Senior Center for another year for their Board meetings and office space for their Board secretary to prepare the agenda and agenda packet.

The attached facilities use agreement describes the general provisions, which include use on average of five meetings annually with seventy hours of office use. Any copies printed will be reimbursed to the City if needed. The use of the office time would be during normal business hours and for meetings, existing staff already working can open and close, therefore no additional staff costs would be incurred. During this past year's agreement, no office time was used and only 15 single sided copies were printed.

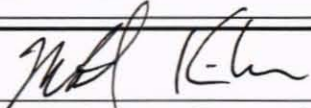
The Selma Health Care District has submitted a request to waive fees associated with the facilities use agreement. Fees associated with usage and meetings would be approximately One Thousand Two Hundred Dollars (\$1,200.00) per year.

The fee waiver serves a public purpose by providing an office space and meeting location for the Selma Health Care District, which provides community-based health care services to residents throughout Selma by means of grants to various local organizations.

The Health Care District has assisted the City of Selma over the past six summers with annual contributions of \$7,100.00 for Summer Recreation Swim and has provided grant funding to both the Police and Fire Departments. During the current COVID-19 pandemic, the Health Care District approved to assist with the City's Senior Meal Program and with providing facemasks for employees and the Community.

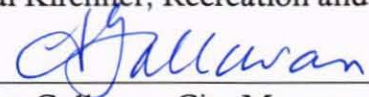
The term of the current agreement is set to expire on June 30, 2020. Council would need to review and approve a new fee waiver and agreement for the upcoming fiscal year. Staff will be available at the meeting to answer any questions.

RECOMMENDATION: Staff recommends that Council: Adopt the resolution approving the Facilities Use Agreement and related fee waiver.


Mikal Kirchner, Recreation and Community Serv. Director

5-14-2020

Date


Teresa Gallavan, City Manager

5-12-20

Date

RESOLUTION NO. 2020 – __R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA, CALIFORNIA, APPROVING A FACILITIES USE AGREEMENT WITH THE SELMA HEALTH CARE DISTRICT, AND A REQUEST FOR A FEE WAIVER REGARDING SAME

WHEREAS, the Selma Health Care District (“District”) requested to use the City’s Senior Center for its Board meetings, and related preparation of meetings, for the period of July 1, 2020 through June 30, 2021; and

WHEREAS, the Selma Health Care District requested that the City Council waive fees associated with the Facility Use Agreement thru the term of June 30, 2021; and

WHEREAS, the total fees associated with the facility use agreement are One Thousand Two Hundred Dollars (\$1,200.00), which includes the use on average of five meetings annually with seventy hours of office use; and

WHEREAS, the total amount the Selma Health Care District is requesting the City Council to waive is One Thousand Two Hundred Dollars (\$1,200.00); and

WHEREAS, while the City is proposing to waive certain fees associated with the agreement, Selma Health Care District is still required to comply with all other provisions of the City’s Municipal Code, and the provisions of the Facility Use Agreement; and

WHEREAS, the fee waiver serves a public purpose by providing an office space and meeting location for the Selma Health Care District, which provides community-based health care services to residents throughout Selma by means of grants to various local organizations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELMA DOES HEREBY RESOLVE AS FOLLOWS:

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

SECTION 2. The City Council hereby approves the Facility Use Agreement with the District, and authorizes the City Manager to execute same.

SECTION 3. The fee waiver serves a public purpose by providing an office space and meeting location for the Selma Health Care District, which provides community-based health care services to residents throughout Selma by means of grants to various local organizations.

SECTION 3. The City Council hereby approves the fee waiver for fees associated with the Facilities Use Agreement in the amount of One Thousand Two Hundred Dollars (\$1,200.00).

SECTION 4. The Selma Health Care District shall comply with the City's Municipal Code, the Facilities Use Agreement, and provide the City with all information required by City staff, including, but not limited to, the following:

1. Proof of insurance with the City named as additional insured.
2. Indemnification of the City.

SECTION 5. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 6. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED this 18th day of May, 2020, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Louis Franco, Mayor

ATTEST:

Reyna Rivera, City Clerk

CITY OF SELMA FACILITIES USE AGREEMENT

THIS FACILITIES USE AGREEMENT ("Agreement") is entered into on the 1st day of July, 2020 ("Effective Date"), by and between the City of Selma, a California municipal corporation (the "City") and Selma Healthcare District, a California local healthcare district (the "District"). The City and District are collectively referred to as "Parties" and individually as "Party."

RECITALS

WHEREAS, the City is the owner of certain real property located at 2301 Selma Street, Selma, California, commonly known as Nick Medina Senior Center located at 2301 Selma Street in Selma, California (the "Center"). This Agreement pertains to the use of the dining room for meeting and small office space; and

WHEREAS, District will hold Board Meetings and use a portion of an office for their secretary all at the Center; and

WHEREAS, the Parties desire to enter into this Agreement to make the City's space and facilities at the Center available to the District, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained, the Parties hereto agree as follows:

SECTION 1. GENERAL PROVISIONS

(A) Term.

The term of this Agreement shall commence on the Effective Date and shall terminate on June 30, 2021, unless sooner terminated by either Party, as provided in this Agreement.

(B) Property.

The District may use the following rooms and facilities at the Center:

- Dining Room for Board Meetings. (Multi-Purpose Room if a Closed Session is required).
- Office space for the Board Secretary to prepare packet prior to each Board Meeting. (Estimated five meetings and one to two special meetings only if needed.)

The space set forth herein at the Center is hereinafter collectively referred to as the "Property".

(C) Rent and Utilities.

The City shall waive the District's rental and utilities fees for use of the Property. The City shall provide to the District invoices for use of the copier (\$0.05 per copy) on or about the first business day of each month, or as soon thereafter as practical, for costs incurred in the previous month. The District shall make payment within thirty (30) days of receipt of each invoice to Selma City Hall, 1710 Tucker Street, Selma, CA 93662

(D) Holdover.

In the event District remains in possession of the Property after the termination or expiration of this Agreement, then District shall be deemed to be occupying the Property on a month-to-month basis, subject to the terms and conditions of this Agreement.

(E) Use Restrictions.

The following activities or items are prohibited at the Property, unless permission is granted by the City Manager or his/her designee:

(1). Additional usage of the Senior Center not associated with the Board Meetings or Office Space for the Secretary.

(F) Selma Healthcare District Responsibilities.

(1) The District shall be financially responsible for any damages that may occur at or to the Property related to District's use.

(G) Non City-Owned Property.

The City reserves the right to remove any remaining items from the Property and have them stored at the District's expense upon expiration of the term of this Agreement. If such items, equipment or supplies are not claimed within six (6) months, the City reserves the right to dispose of such material in any manner it deems appropriate. The District shall be responsible for any costs of storage and disposal incurred by the City for such equipment or supplies. The City is not responsible for any damage or theft of any items left by the District, or any of the District's officers, agents, employees, guests, or invitees.

(H) Disclaimer of Condition of Property.

City makes no warranty or representation of any kind concerning the Property or the fitness of the Property for the use intended by the District. The District has inspected the Property and knows and accepts its condition, and waives any express or implied indemnity against the City.

(I) Damage or Destruction of the Property.

In the event the Property is damaged by fire or other casualty, City may, at its sole and absolute discretion, elect to terminate this Agreement. If the City is unable or unwilling to repair

any damage caused by fire or other casualty, the District may terminate this Agreement. Should the Property be damaged by fire or other casualty, no liability shall occur against City for damage due to loss of business, loss of revenue or additional costs incurred by the District.

(J) Assignment.

The District shall not assign this Agreement without the prior written consent of the City. Any such assignment without prior written consent shall be void, and a the City, at its option, may terminate this Agreement.

(K) Right of Entry.

City shall be entitled, at all times, to enter the Property for the purpose of inspecting the Property, or for the purpose of inspecting the performance by the District of the terms and conditions of this Agreement, or for the purpose of posting and keeping posted thereon notices of non-responsibility for any construction, alteration or repair thereof, as required or permitted by any law or ordinance. City shall also be permitted to use the Property when The District is not operating.

SECTION 2. USE OF PREMISES

(A) General.

- i. The District shall use the Property for the purpose of Board Meetings and by the Secretary for Board Packet preparation.
- ii. The District shall not use the Property, or any portion thereof, for any purpose which may increase the existing rate of insurance upon the Property, or cause the cancellation of the insurance on the Property. The District shall be responsible for any insurance increase or cancellation of insurance, as a result of its activities at the Property.

(B) Hours of Operation.

The District shall maintain the following hours of operation:

- i. Monthly Board Meetings (Estimated five per year- 5:30 p.m. to 8:30 p.m. estimate.)
- ii. Office Space 1:30 p.m. to 5:00 p.m., prior to Board Meetings.

(C) Supplies and Expenses.

- i. City shall pay for all utilities including electricity, cable, telephone, gas, heat, cooling, sewer and water.
- ii. City shall pay for all expenses for janitorial services.

- iii. City shall pay for the costs associated with the alarm system.
- iv. City shall be responsible for the costs associated with building fire and liability insurance for the Property.
- v. The District shall pay for cost of copier copies.

(D) Maintenance, Repair and Alterations.

- i. City shall be responsible for all structural, equipment repair, routine maintenance, and long term capital repair at the Property, except to the extent such repair is made necessary as a result of the misconduct or negligent acts or omissions of The District, its program participants, and/or invitees. In the event of any repair, whether requested by The District or otherwise, the City may make the determination whether to do the work or terminate this Agreement.
- ii. City shall be responsible for maintaining all landscaping at the Property.
- iii. The District shall maintain the Property in good and safe condition, and shall be responsible for repairing any damage arising from the negligence or misconduct of the District, its staff, and/or invitees. In the event the District discovers a hazard or maintenance issue at the Property, it shall notify the City immediately.
- iv. The District shall not commit, or suffer to be committed, any waste upon the Property, or any public or private nuisance.
- v. Any and all improvements made to the Property during the Term of this Agreement shall belong to the City, except trade fixtures of the District. The District may, upon termination of this Agreement, remove its own trade fixtures, but shall repair or pay for all repairs necessary for damages to the Property occasioned by such removal. Prior to making any improvements to the Property, the District shall obtain the City's approval and any required permits.

SECTION 4. RELEASE, HOLD HARMLESS AND INDEMNIFICATION

(A) The District shall defend, indemnify, and hold harmless City, its elected and appointed officers, officials, agents, contractors, consultants, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising out of or in connection with the District's use of the Property, or its negligent failure to comply with any of its obligations contained in this Agreement (collectively "Claims"). Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve the District from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any Claims whether or not such insurance policies shall have been determined to apply.

(B) The District releases the City, its officers, officials, agents, and employees of any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorney's fees, arising out of or in connection with the District's use of the Property under this Agreement.

The District acknowledges and expressly waives the benefit of California Civil Code Section 1542, which is set forth below, and specifically agrees that the release contained in this Agreement shall extend to all claims arising out of transactions which the Parties do not know or expect to exist in their favor at this time, and which rise out of or are connected to the Agreement. California Civil Code Section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

City's Initials

The District's Initials

The District acknowledges that the facts and law in relation to this matter and the claims released by the terms of this Agreement may turn out to be different from or in addition to the facts or law as now known to each Party or its counsel. The District therefore expressly agrees that the release so given shall be and remain in effect as a full and complete release of the persons and entities released thereby notwithstanding any possibility of new or different facts or law.

(C) By execution of this Agreement, the District acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

(D) If, for any reason such as, but not limited to, earthquake, flood water damage, explosion or other calamity of circumstance, it shall become necessary to close the Property, no liability shall occur against City for damage due to loss of business, loss of revenue or additional costs incurred by the District.

SECTION 5. INSURANCE

(A) During the term of this Agreement, the District shall, at its sole costs and expense, carry, maintain, and keep in full force and effect insurance of the types and in the amounts as set forth in the attached Exhibit B, incorporated herein by this reference.

(B) City and its elected and appointed officers, employees, agents, and volunteers shall be named as additional insureds with respect to each of the insurance policies required under this Agreement.

(C) At all times during the term of this Agreement, the District shall maintain on file with the City's Risk Manager a certificate or certificates of insurance showing that the insurance policies

required by this Section 5 are in effect in the required amounts and naming the City and its elected and appointed officers, employees, agents, and volunteers as additional insureds. the District shall, concurrently with the execution of this Agreement, file with City's Risk Manager such certificate(s).

(D) The District shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

SECTION 6. INDEPENDENT CONTRACTOR

i. The District is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of the District shall at all times be under the District's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of the District or any of the District officers, employees, or agents, except as set forth in this Agreement. The District shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. The District shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

ii. No employee benefits shall be available to the District in connection with the performance of this Agreement. City shall not pay salaries, wages, or other compensation to Antioquia for operating a the District. City shall not be liable for compensation or indemnification to the District for injury or sickness arising out of its operation or use of the Property under this Agreement.

SECTION 7. NOTICES

Any notices which either Party may desire to give to the other Party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

If to City:

Teresa Gallavan, City Manager
City of Selma
1710 Tucker Street
Selma, CA 93662

If to the District:

Selma Healthcare District
c/o Rose Robertson
1710 Tucker Street
Selma, CA 93662

With a copy to:

Neal E. Costanzo
Costanzo & Associates PC
575 E. Locust Avenue, Suite 115
Fresno, CA 93720

SECTION 8. **COMPLIANCE WITH LAWS**

The District represents and warrants to City that the District, its officers, agents, employees and volunteers have all licenses, permits, qualifications, and approvals of whatever nature which are legally required for the District, its officers, agents, employees and volunteers to provide the services, programs and activities contemplated by this Agreement, and that it shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities, federal, state, county and city, relating to its actions under this Agreement whether such statutes, ordinances, regulations and requirements are now in force or hereinafter enacted.

SECTION 9. **DEFAULT/TERMINATION**

i. In the event of any breach of this Agreement, City, in addition to any other rights and remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the Property.

ii. In the event of any breach of this Agreement, either Party may terminate the Agreement immediately, by serving written notice upon the other. Upon receipt of said notice, the District shall have five (5) days to vacate the Property and remove all of its possessions, unless the notice provides otherwise.

iii. Either Party may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof by serving the other serve upon the thirty (30) days' written notice. Upon receipt of said notice, the District shall have thirty (30) days to vacate the Property and remove all of its possessions, unless the notice provides otherwise. If either Party suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

SECTION 10. **MISCELLANEOUS PROVISIONS**

(A) The District acknowledges that this Agreement may create a possessory interest subject to property taxation, and that the District may be subject to payment of property taxes levied on such interest. Any such tax liability shall be the responsibility of the District.

(B) The District agrees that its use of the Property and this Agreement, shall not entitle the District to any relocation benefits pursuant to federal, state, or local law, and the District hereby waives any such claim against the City for relocation benefits.

(C) The rights granted to the District under this Agreement are non-exclusive license rights only, and in no respect shall the same constitute or be construed as an assignment of a leasehold or other interest in the Property set forth in this Agreement.

(D) Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

(E) If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the District use of the Property under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled. The venue for any litigation shall be Fresno County, California or in the United States District Court for the Eastern District of California.

(F) If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(G) This Agreement shall be governed and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

(H) All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

(I) This instrument contains the entire Agreement between the City and the District with respect to the transactions contemplated herein. No other prior oral or written agreement(s) are binding upon the Parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and the District.

(J) This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

“CITY”
City of Selma

“District”
Selma Health Care District

By _____
Teresa Gallavan, City Manager

By: _____
Rose Robertson, Chair

Attest:

By: _____
Reyna Rivera, City Clerk

Approved as to form:

By: _____
Neal E. Costanzo, City Attorney

Exhibit B

INSURANCE REQUIREMENTS

Without limiting the District indemnification of City, and prior to commencement of the Services, the District shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to the City.

General liability insurance. The District shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. The District shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the District arising out of or in connection with this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

Workers' compensation insurance. The District shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

The District shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees and volunteers.

Proof of insurance. The District shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. The District shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with this Agreement by the District, its agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by the District shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis

for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by the District. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow the District or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. the District hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). The District acknowledges and agrees that any actual or alleged failure on the part of the City to inform the District of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the District maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the District. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. The District agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that the District insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass Through Clause. The District agrees to ensure that its subconsultants, subcontractors, and any other party involved with the permitted use who is brought onto or involved in the permitted use by the District, provide the same minimum insurance coverage and endorsements required of the District. The District agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. The District agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

City's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the District ninety (90) days advance written notice of such change.

Self-insured retentions. Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

Timely notice of claims. The District shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from the District performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. The District shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of this Agreement.

**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

May 18, 2020

ITEM NO: 3.

SUBJECT: Consideration of Purchase Access Control and Surveillance Equipment for New Police Station

RECOMMENDATION: Staff recommends that City Council Authorize the City Manager to approve the purchase of Access Control and Surveillance Systems for the new Police Station.

DISCUSSION: As part of the construction for the City's new Police Station, surveillance and access control systems were identified to be purchased through Surveillance Integration because they are the current provider of the Police Department's security system. The City deems these systems critical to the project because they not only protect the public but staff as well. For the surveillance system, the quote proposes purchasing the following:

- 1 – 280 TB Network Video Recorder
- 1 – 15 MP Analytic Multi Sensor Camera
- 6 – 15MP Analytic Multi Sensor Camera
- 1 – 9 MP Analytic Multi Sensor Camera
- 5 - 12MP Fisheye Dome Camera
- 2 – 2.0 Megapixel IR PTZ
- 1 – 3.0 Megapixel HD Mini Dome Camera
- 22 – 4.0 Megapixel Analytic Outdoor Dome Camera
- 2 – 6.0 Megapixel Analytic Bullet Camera

Also included in the quote is material, software, taxes, and labor totaling \$145,504.88. Attached is the detailed quote for the project.

The access control system creates security through the building by installing card-reader door controls and allows staff to deny access into different areas of the building. In addition, it gives dispatch authority to grant access in to locations at the push of a button. This system will control the holding cells as well. The quote proposes purchasing the following:

- Server
- Software
- Power Supply & Enclosures
- Credentials
- Controllers
- Readers

Also included in the quote is the materials, taxes, and labor totaling \$90,652.50. Attached is a copy of the quote providing further detail.

Staff requests authorization for the City Manager to approve the quotes to allow the vendor to purchase the necessary equipment and begin installation.

<u>COST:</u> (Enter cost of item to be purchased in box below)		<u>BUDGET IMPACT:</u> (Enter amount this non-budgeted item will impact this years' budget in box below – if budgeted, enter NONE).
Surveillance Sys. \$145,504.88 Access Control Sys. \$90,652.50		
<u>FUNDING:</u> (Enter the funding source for this item in box below – if fund exists, enter the balance in the fund).		<u>ON-GOING COST:</u> (Enter the amount that will need to be budgeted each year in box below – if one-time cost, enter NONE).
Funding Source: Police Station Const. Fund Fund Balance: \$4,594,583		

RECOMMENDATION: Staff recommends that City Council Authorize the City Manager to approve the purchase of Access Control and Surveillance Systems for the new Police Station.

<u>/s/</u> Isaac Moreno, Assistant City Manager	<u>05/14/2020</u> Date
<u>/s/</u> Teresa Gallavan, City Manager	<u>05/14/2020</u> Date

RESOLUTION NO. 2020-____R

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA
APPROVING AND AUTHORIZING PURCHASE OF ACCESS CONTROL
AND VIDEO SECURITY SYSTEMS FOR SELMA POLICE DEPARTMENT**

WHEREAS, the City of Selma is nearing completion of construction of a new Police Department Headquarters; and

WHEREAS, the new Police Department is required to be equipped according to standards set by the State of California with access control and video security systems as to which there are limited approved vendors; and

WHEREAS, the City has received a proposal in the total amount of \$95,699.57 for the access control system and a proposal of \$145,504.88 for installation of the video security system, from the same, preferred provider Surveillance Integration.

NOW, THEREFORE, be it resolved as follows:

1. The foregoing recitals are true and correct.
2. The City Council approves the proposals by Surveillance Integration for installation of the access control and video security system for the new Selma Police Department Headquarters and authorizes the purchase the access control system for \$95,699.57 and of the video security system for \$145,504.88.
3. The City Manager is authorized to execute all documents and make all expenditures necessary for the acquisition of the access control and video security systems from Surveillance Integration.

The foregoing resolution was duly approved by the Selma City Council at a regular meeting held on the 18th day of May, 2020 by the following vote, to wit:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Louis Franco, Mayor

ATTEST:

Reyna Rivera, City Clerk

Video Security for New Selma Police Department HQ

Selma Police Department

City of Selma
Police Department
Selma, CA 93662



Presented By:



Surveillance Integration
4570 East Pine Ave
Fresno, CA 93703
(559) 579-1122
www.survint.com

Modified: 12/24/2019
Revision: 3

Surveillance Integration

NVR System

SCOPE OF WORK

- | | | |
|---|---|--------|
| 1 | EQUIPMENT / LABOR, RECOMMENDED TO COMPLETE INSTALLATION OF PROPOSED (40) IP MEGAPIXEL CAMERA VIDEO SECURITY SYSTEM. | \$0.00 |
|---|---|--------|

SERVER



- | | | |
|---|------------------------------|-------------|
| 1 | 280TB NETWORK VIDEO RECORDER | \$36,352.00 |
|---|------------------------------|-------------|

Built with high quality components to ensure reliability and continuous operation in mind. (24) 14TB Enterprise Hard Drives configured in (2) RAID 6 array(s) for redundancy and maximum storage capacity of 280TB. Operating System configured on 2 x 500GB SSD's in RAID 1 for redundancy. Intel Xeon E5 Processor, 32GB ECC RAM DDR4, Windows Server 2016 Standard, 1280W high-efficiency (1+1) redundant power supply; 4x USB 3.0 (rear); 2x USB 2.0 (rear); Built-in dual Gigabit LAN 10/100/1000Mbps. Rackmount Chassis; Mouse & Keyboard included.

- | | | |
|---|--|--------|
| 1 | Video storage has variables based on lighting, cameras, motion detection, resolution, frame count, compression level settings and connectivity. Amount of storage or length of time video will be stored and quality of video is estimated based on these factors. When adding cameras or changing any of the settings listed above the amount and quality of video stored will likely be reduced. 'Surveillance Integration makes no guarantee as to quality of video stored, how much video or length of time video will be available on any given system' | \$0.00 |
|---|--|--------|

* We estimate (12) weeks of stored video based on the number of cameras (40) proposed for your video security system.*

Storage can be prioritized on a per camera basis to extend length of video archive.

SOFTWARE



- | | | |
|----|---|-------------|
| 40 | AVIGILON CONTROL CENTER 7 ENTERPRISE CAMERA LICENSE | \$11,600.00 |
|----|---|-------------|

(1) camera license channel(s). Capable of Unlimited concurrent viewing clients, up to 300+ cameras per server, 10,000+ cameras per site, 100+ servers per site, and Unlimited Rule triggers. Provides situational awareness while analyzing detailed regions of interest from a single camera or multiple. Use multiple viewing tabs and cycle them automatically to allow one operator views of cameras from multiple locations throughout large camera systems. Save viewing parameters for simple and repeatable setup of complex multi-camera viewing configurations. *Digitally zoom and pan within an image while automatic dynamic contrast enhancement reveals low light details for unmatched digital PTZ performance. High Definition Stream Management (HDSM) support. Industries most powerful VMS engine. ACC Mobile Gateway included. Supports Maps and Web pages embedding.

CAMERAS

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: Video Security for New Selma Police
Department HQ

Project No.: SIP-12902

12/24/2019

Page 2 of 6

Surveillance Integration



- 1 15MP ANALYTIC MULTI SENSOR CAMERA with IR (180 Degree FOV) \$2,358.00
Multi-Directional Coverage with 3 adjustable image sensors. Each 5MP resolution sensor is a fixed focus 4mm lens. 1/2.8" progressive scan CMOS image sensor running up to 20 FPS in high framerate mode and 15 FPS if all sensors have Analytics enabled. Angle of view per image sensor is 72 degrees. Resolution is 2592 horizontal x 1944 vertical pixels. Only one camera license is required. MicroSD/microSDHC/microSDXC slot for on-board storage. Operating Temperature from -14F to 122F with Type 2 PoE Plus. IK10 Impact Rating and IP66 Weather Rating.



- 6 15MP ANALYTIC MULTI SENSOR CAMERA with IR (270 Degree FOV) \$14,148.00
Multi-Directional Coverage with 3 adjustable image sensors. Each 5MP resolution sensor is a fixed focus 2.8mm lens. 1/2.8" progressive scan CMOS image sensor running up to 20 FPS in high framerate mode and 15 FPS if all sensors have Analytics enabled. Angle of view per image sensor is 103 degrees. Resolution is 2592 horizontal x 1944 vertical pixels. Only one camera license is required. MicroSD/microSDHC/microSDXC slot for on-board storage. Operating Temperature from -14F to 122F with Type 2 PoE Plus. IK10 Impact Rating and IP66 Weather Rating.



- 1 9MP ANALYTIC MULTI SENSOR CAMERA with IR (180 Degree FOV) \$2,203.00
Multi-Directional Coverage with 3 adjustable image sensors. Each 3MP resolution sensor is a fixed focus 4mm lens. 1/2.8" progressive scan CMOS image sensor running up to 30 FPS in high framerate mode and 24 FPS if all sensors have Analytics enabled. Angle of view per image sensor is 72 degrees. Resolution is 2048 horizontal x 1536 vertical pixels. Only one camera license is required. MicroSD/microSDHC/microSDXC slot for on-board storage. Operating Temperature from -14F to 122F with Type 2 PoE Plus. IK10 Impact Rating and IP66 Weather Rating.



- 5 12MP FISHEYE DOME CAMERA \$5,780.00
81dB Wide Dynamic Range, 1/2.3" progressive scan CMOS image sensor running 20 FPS. Angle of view 360 degrees and 180 degrees hemisphere. 2992 horizontal x 2992 vertical pixels. SD/SDHC/SDXC slot for onboard storage. Operating Temperature from -4F to 131F with PoE. IK10 Impact Rating and IP66 Weather Rating.



- 2 2.0 MEGAPIXEL IR PTZ, 30X Zoom, self learning analytics, IK10 impact rating, IP66 weather rating. 250 meter (820 feet) IR illumination range that automatically adjusts the IR projection angle according to zoom and field of view. Combined with wide dynamic range (WDR), image stabilization, this IR PTZ camera provides exceptional images in a wide range of applications and environments. \$6,992.00



- 1 3.0 MEGAPIXEL HD MINI DOME CAMERA \$417.00
20 images per second at 2048 x 1536 resolution, Multiple video streams, 2.8 mm, F1.4 Lens, Selectable sensitivity and threshold Motion Detection, Privacy Zones, 100 degrees angle of view, 1/3.6 progressive scan CMOS sensor, ONVIF profile S compliant, Operating Temperature 0C to +50C (32F to 122F),

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: Video Security for New Selma Police
Department HQ

Project No.: SIP-12902

12/24/2019

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Surveillance Integration



- | | | |
|----|---|-------------|
| 22 | 4.0 MEGAPIXEL ANALYTIC OUTDOOR DOME CAMERA,
30 images per second at 2560 x 1440 resolution, Advanced Video Pattern
Detection, 3.3-9 mm, F1.3, P-Iris, remote focus and zoom, Multi-stream H.264,
H.265, and Motion JPEG, ONVIF compliant, 1/2.8 progressive scan CMOS sensor,
ONVIF compliant API, Meets IP67 Weather Rating, Angle of View 34 degrees - 92
degrees, Audio Input and Output, Alarm In & Alarm Out, Operating Temperature -
40C to +65C (-40F to 149F) | \$26,026.00 |
|----|---|-------------|



- | | | |
|---|---|------------|
| 2 | 6.0 MEGAPIXEL ANALYTIC BULLET CAMERA with IR
High-power IR LEDs Illumination up to 164 ft., 30 images per second at 3200 x
1800 resolution, 4.9-8 mm, F1.8, P-Iris, remote focus and zoom, 83 dB true
dynamic range, IP67 weather compliant, H.264, H.265, and Motion JPEG, ONVIF
compliant, WDR 1/1.8" progressive scan CMOS sensor, Angle of View 52 degrees
- 92 degrees , Audio Input and Output, Alarm In & Alarm Out, Operating
Temperature -40 degrees C to +65 degrees C (-40 degrees F to 149 degrees F) | \$2,784.00 |
|---|---|------------|

CAMERA MOUNTS



- | | | |
|---|--|----------|
| 2 | Junction box for the H4A-BO-IR HD Bullet Cameras | \$180.00 |
|---|--|----------|



- | | | |
|---|--|----------|
| 6 | Corner mount adapter for use with H4A-MT-WALL1, H4-BO-JBOX1 or HD Bullet
Camera | \$540.00 |
|---|--|----------|



- | | | |
|---|---|----------|
| 8 | Pendant wall arm for IR PTZ or H4A Multi Sensor | \$760.00 |
|---|---|----------|

INSTALL MATERIALS

- | | | |
|---|--|----------|
| 1 | Installation materials; Weather Boxes, Flex, Clamps, Seals, Fasteners. | \$950.00 |
|---|--|----------|

INSTALLATION

- | | | |
|---|--|-------------|
| 1 | Technical administrative time associated with system design, programming,
software application training. System networking and other specialized connectivity
requirements such as wireless systems. | \$12,000.00 |
| 1 | Two - three Installers, two service trucks, one 30ft bucket truck. Installation cost
includes 18-20 combined travel hours for installers. | \$13,000.00 |

ACCESS REQUIREMENTS

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: Video Security for New Selma Police
Department HQ

Project No.: SIP-12902

12/24/2019

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Surveillance Integration

1 REMOTE ACCESS \$0.00

Access to Video Recorder(s) via internet "MAY" require customer to provide one (1) Static Public IP Address.

Customer is responsible to provide:

- Securing their network from unauthorized intrusion from the Internet
- The recommended bandwidth of 2.0 Mbps downstream and 1.5 Mbps upstream. A minimum of 1.5 Mbps downstream and 1.0 Mbps upstream is required.

Surveillance Integration provides No Guarantee as to:

- Reliability of internet remote connectivity via mobile devices and or workstations
- Video frame count (fps) or resolution quality via internet

WARRANTY

1 CUSTOMER TO PROVIDE: \$0.00

1. Make network available for video traffic
- 2.. Network ports for cameras on customer supplied switches.
3. Conduit required for installation of low voltage CAT6 cable
4. Necessary Rack Space and electrical requirements at server location
5. All viewing monitors/stations: Surveillance Integration will provide monitors at customer's request
6. 2-gang box at each camera location.
7. CAT6 cable installed into each 2-gang box at camera locations terminated with keystones.

1 SURVEILLANCE INTEGRATION-WARRANTY \$0.00

CONTRACTOR LICENSE # 927851

SURVEILLANCE INTEGRATION WARRANTY!

- * ONE YEAR ON WORKMANSHIP
- * THREE YEARS ON CAMERAS
- * THREE YEARS ON DIGITAL VIDEO / NVR RECORDER

TERMS OF SALE

1 * 50% DOWN PRIOR TO INSTALLATION \$0.00

* 40% WHEN SYSTEM IS IN SUBSTANTIAL USE

* 10% AFTER INSTALLATION

Project Subtotal: \$136,090.00

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: Video Security for New Selma Police
Department HQ

Project No.: SIP-12902

12/24/2019

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Surveillance Integration

Project Summary

Equipment:	\$111,090.00
Labor:	\$25,000.00
Sales Tax:	\$9,414.88
Grand Total:	\$145,504.88

Client:

Date

Contractor: Surveillance Integration

Date

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: Video Security for New Selma Police
Department HQ

Project No.: SIP-12902

12/24/2019

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New PD Headquarters Access Control

Selma Police Department

City of Selma
Police Department
Selma, CA 93662



Presented By:



Surveillance Integration
4570 East Pine Ave
Fresno, CA 93703
(559) 579-1122
www.survint.com

Modified: 3/9/2020
Revision: 0

Surveillance Integration

Access Control

SCOPE OF WORK

- 1 EQUIPMENT / MATERIALS / LABOR, RECOMMENDED TO COMPLETE INSTALLATION OF A (35) OPENINGS, (40) CARD READER, ACCESS CONTROL SYSTEM.

SERVER



- | | | |
|---|---|------------|
| 1 | ACCESS CONTROL MANAGER ENTERPRISE APPLIANCE FOR 32 READERS includes: physical appliance, embedded Linux OS & Open LDAP licenses for configuration database; Access Control Manager Security Management Software License; two (2), 16 Reader Count Software License; Total reader capacity can be expanded from 32 to 2,048 readers, in increments of 16, with the purchase of the desired quantity of 16 Reader Count Software Licenses; Supports up to 500K identities and 150M stored events and fifty (50) simultaneous operators (via browser). | \$4,499.00 |
|---|---|------------|

SOFTWARE



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|---|---|----------|
| 1 | ADDITIONAL 16 READER COUNT SOFTWARE LICENSE | \$833.00 |
|---|---|----------|



- | | | |
|---|---|--|
| 1 | ACCESS CONTROL MANAGER LICENSE for Video Integration for Avigilon (per Appliance) | |
|---|---|--|



- | | | |
|----|---|--|
| 48 | ACCESS CONTROL MANAGER PER READER LICENSE FOR MERCURY READERS- If Mercury reader support is desired, item must be ordered with all ACM versions in quantity of readers desired. | |
|----|---|--|

POWER SUPPLY & ENCLOSURE



- | | | |
|---|---|----------|
| 1 | EIGHT DOOR MERCURY INTEGRATED POWER SYSTEM
Includes a painted steel enclosure, removable pre drilled back plate, controller standoffs and mounting screws and a 150 watt 12V/4A and 24V/4A power supply-battery charger. The power supply is pre-wired to eight Class 2, Power Limited (CL2PL) outputs (D8P Board) delivering a regulated independent power connection to each Mercury board and eight fused output (C8 Board) for independent relay lock power. The power supply features dual outputs (12 & 24volts DC), form 'C' fault relay contacts, a fire alarm input and network interface (interface module sold separately) to enable monitoring, reporting and control of the power system from Access Control Manager (ACM) link. Battery space for two 12V, 8Ah batteries is available in cabinet. Cabinet size: 20" x 24" x 4.5" with door lock and two (2) keys. Weight 25 lb | \$700.00 |
|---|---|----------|

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: New PD Headquarters Access Control

Project No.: SIP-13115

3/9/2020

Page 2 of 6

Surveillance Integration



- | | | |
|---|--|-------------|
| 4 | SIXTEEN DOOR MERCURY INTEGRATED POWER SYSTEM
Includes painted steel enclosure, removable pre drilled back plate, controller standoffs and mounting screws and a 150 watt 12V/12A or 24V/6A power supply-battery charger. The power supply is pre-wired to eight Class 2, Power Limited (CL2PL) outputs (D8P Board) delivering a regulated independent power connection to Mercury boards and auxiliary equipment. The power supply features dual outputs, form 'C' fault relay contacts, a fire alarm input and network interface to enable monitoring, reporting and control of the power system from Access Control Manager (ACM) link. Battery space for two 12V, 8Ah batteries is available in cabinet. Cabinet size: 20" x 24" x 4.5" with door lock, tamper switch and two (2) keys. Weight 25 lb. | \$11,340.00 |
|---|--|-------------|



- | | | |
|----|---|----------|
| 10 | Battery Power Supply 12V 7Amp Hour Battery | \$300.00 |
|----|---|----------|

CREDENTIALS



- | | | |
|-----|---|----------|
| 100 | HID iCLASS 3000- Clamshell card provides 13.56 MHz read/write contactless smart card technology in a cost effective card package, with an ABS shell construction that provides durability in harsh environments. iCLASS provides enhanced security through encryption and mutual authentication while delivering the convenience, affordability and reliability of proximity technology for which HID is known worldwide | \$508.00 |
|-----|---|----------|



- | | | |
|-----|---|------------|
| 100 | HID iCLASS ULTRA HIGH FREQUENCY - Clamshell card provides 860 - 960 MHz read/write contactless smart card technology in a cost effective card package, with an ABS shell construction that provides durability in harsh environments. iCLASS provides enhanced security through encryption and mutual authentication while delivering the convenience, affordability and reliability of proximity technology for which HID is known worldwide. | \$1,000.00 |
|-----|---|------------|

CONTROLLERS



- | | | |
|---|---|------------|
| 2 | INPUT MONITOR CONTROL MODULE
16 Zone Input Monitor Module with 2 relays | \$1,680.00 |
|---|---|------------|



- | | | |
|---|--|----------|
| 1 | OUTPUT MONITOR CONTROL MODULE
16 Relay Output Control Module | \$840.00 |
|---|--|----------|



- | | | |
|----|---|-------------|
| 24 | 2-READER INTERFACE MODULE - (2 reader: mag or wiegand, 8 inputs, 6 relays) | \$16,440.00 |
|----|---|-------------|



- | | | |
|---|---|------------|
| 4 | Intelligent Controller, Linux Based with 2 doors, 8 inputs and 4 outputs, expandable up to 64 doors. | \$4,960.00 |
|---|---|------------|

READERS

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: New PD Headquarters Access Control

Project No.: SIP-13115

3/9/2020

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Surveillance Integration



- | | | |
|----|--|------------|
| 38 | HID R40 iClass long range smart card reader, read range up to 5.2 inches or 13 centimeters, 13.56 Mhz, Mounts on any standard wall-switch box or any flat surface. | \$9,310.00 |
|----|--|------------|



- | | | |
|---|---|------------|
| 2 | HID U90 ULTRA HIGH FREQUENCY READER
Extended long range solution for parking and gate control. read range up to 5 meters, Transmit frequency 865 - 868 Mhz or 902 - 928 MHz dependent on regional regulations, 9.10" x 9.10" x 2.75" | \$2,324.00 |
|---|---|------------|

INSTALL MATERIALS



- | | | |
|---|--|---------|
| 1 | R40 READER IP65 GASKET
R40 size, IP65, ICLASS SE, PACK OF 10 GASKETS. | \$26.00 |
|---|--|---------|



- | | | |
|----|--|------------|
| 27 | REQUEST-TO-EXIT DETECTOR
Single or double door use. Wall or ceiling mountable. Internal vertical pointability. Wrap-around coverage patter. Selectable relay trigger mode. Selectable fail safe/fail secure modes. Dimensions: 1.5 in. x 6.25 in. x 1.5 in. | \$3,442.50 |
|----|--|------------|

- | | | |
|---|---|------------|
| 1 | Installation materials; Clamps, Seals, Fasteners. | \$1,000.00 |
|---|---|------------|



- | | | |
|----|--|----------|
| 40 | DOOR CONTACT
Closed Circuit, Rare Earth Magnet, 0.75" Gap, 24" Pre-Wired Lead, 3/4" Diameter x 1-1/4" Length, Rhodium Metal, Steel, Black | \$350.00 |
|----|--|----------|

INSTALLATION

- | | | |
|---|--|-------------|
| 1 | System design & engineering. | \$5,225.00 |
| 1 | Technical administrative time associated with system programming, software application training. System networking and other specialized connectivity requirements. Includes approximately 14 hours of travel time for Tech Admin. | \$9,595.00 |
| 1 | Installer Vehicle Trip Charge .50 per mile, 20 - 24 round trips of 40 miles each.
Tech Admin Vehicle Trip Charge .50 per mile, 14 - 16 round trips of 40 miles each. | \$680.00 |
| 1 | Two - three installers, one service truck, ladders, & hand tools. Includes travel of approximately 15 hours per installer. | \$15,600.00 |

WARRANTY

- | | |
|---|--|
| 1 | CUSTOMER TO PROVIDE: |
| | <ol style="list-style-type: none"> 1. Make network available for access control traffic 2. Power outlets where required to power server and access control panels. 3. 1U Rack Space and electrical requirements at head end location for server. 4. Necessary wall space at head end for access control panels. 5. Bundled access control cable to be provided by others and pulled from head end panels to each controlled location. 6. All door / gate / locking hardware is to be provided by others. 7. All detention hardware is to be provided by others. |

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: New PD Headquarters Access Control

Project No.: SIP-13115

3/9/2020

Page 4 of 6



Surveillance Integration

1 SURVEILLANCE INTEGRATION-WARRANTY

CONTRACTOR LICENSE # 927851

- * ONE YEAR ON WORKMANSHIP
- * ONE YEAR ON CONTROLLERS & SUB-PANELS
- * ONE YEAR ON CARD READERS
- * THREE YEARS ON ACCESS CONTROL MANAGER SERVER
- * FIVE YEARS ON POWER SUPPLIES FOR CONTROLLERS

TERMS OF SALE

- 1 * 50% DOWN PRIOR TO INSTALLATION
- * 40% WHEN SYSTEM IS IN SUBSTANTIAL USE
- * 10% UPON PROJECT COMPLETION

Project Subtotal: \$90,652.50

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: New PD Headquarters Access Control

Project No.: SIP-13115

3/9/2020

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Surveillance Integration

Project Summary

Equipment:	\$59,552.50
Labor:	\$31,100.00
Sales Tax:	\$5,047.07
Grand Total:	\$95,699.57

Client:

Date

Contractor: Surveillance Integration

Date

* Price Includes Accessories

Presented By: Surveillance Integration

Project Name: New PD Headquarters Access Control

Project No.: SIP-13115

3/9/2020

Page 6 of 6

ITEM NO: 4.

SUBJECT: Information on Issuance of Notice to Royal Country Estates to Increase Annual Landscape and Lighting Maintenance District Rate in Accordance with Proposition 218

RECOMMENDATION: Receive and discuss information regarding Proposition 218 process for proposed rate increase for Landscaping and Lighting Maintenance District (LLMD) No. 1 zone 11 Royal Country Estates

DISCUSSION: Last fiscal year the Finance Department took over the responsibility of the Landscaping Lighting Maintenance Districts (LLMDs) and discussed with Council the rates to be assessed to the Landscaping and Lighting Maintenance District (LLMD) No.1 for the coming fiscal year. During that conversation, the Assistant City Manager explained that a full rate analysis would be completed in the following year.

This analysis is done by using actual expenditures from a prior year and estimated expenditures for the coming year. The rate calculation is broken up into the following four categories:

- PG&E
- Water
- Grounds Maintenance – PW (Labor)
- Incidental Expense (Supplies)

Each zone is calculated independently to determine the appropriate estimated rate for the coming year and budget vs. actual for the prior is reconciled to determine credits or overcharges. Any material variance would adjust the following year's rate.

While performing this exercise, it was determined that some costs were not allocated and others were not calculated correctly. For example, streets lighting within each zone was not factored into the category for PG&E. In addition, labor was divided by the total number of parcels in the whole LLMD. This is not the most appropriate unit of measurement because each zone has different square footage of area to maintain. The quantity of parcels does not adequately portray annual labor hours needed for each individual zone.

This change in calculation for the fiscal year of 2020-2021 created a range of changes but staff identified Royal Country Estates (zone 11) to merit an increase from \$156.60 to \$190.12 per parcel. All other zones will either decrease or stay at the current year's rate. The table below is the comparative analysis reflecting each category of the calculation for the calendar year 2019 versus estimated fiscal year 2020-21 for Zone 11.

Zone 11 Royal Country Estates	TAX ID #	# of Lots		PG&E	Water	Grounds Maint - PW	Incidental Expenses	Total Cost/Area	Rate Per Lot
2020-2021 Totals	6654	<u>59</u>	-	2,739.93	3,341.31	4,754.90	381.18	11,217.32	190.12
2019-2020 Totals	6654	<u>59</u>	-	239.94	3748.11	4917.56	333.97	9,239.58	156.60
Increase/Decrease				2,499.99	-406.80	-162.66	47.21	1,977.74	33.52

Increasing an assessment rate does require a proposition 218 process. Therefore, staff will mail out ballots to the 59 parcels within Zone 11 to give them the option to vote on the increase. If majority protest, the rate increase cannot be assessed. In addition, Council can choose to not impose the assessment increase at the public hearing.

RECOMMENDATION: Discuss Proposition 218 process for proposed rate increase for Landscaping and Lighting Maintenance District (LLMD) No. 1 zone 11 Royal Country Estates

/s/
Isaac Moreno, Assistant City Manager

05/15/2020
Date

/s/
Teresa Gallavan, City Manager

05/15/2020
Date