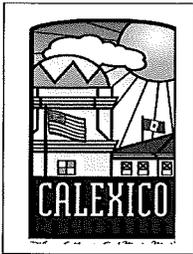


**AGENDA
ITEM
9**



AGENDA STAFF REPORT

DATE: April 5, 2016

TO: Mayor and City Council

APPROVED BY: Nick Fenley, Interim City Manager 

PREPARED BY: Nick Fenley, Interim City Manager

SUBJECT: Award Request for Proposal from Urban Habitat Environmental Landscapes in the Amount of \$26,110.94 and Authorize Interim City Manager to Sign Services Agreement with Urban Habitat Environmental Landscapes for the Installation of Automated Irrigation System at Heber Park.

=====

Recommendation:

It is recommended that the City Council approve the following:

1. Award Request for Proposal from Urban Habitat Environmental Landscapes in the amount of \$26,110.94 for installation of Automated Irrigation System at Heber Park.
2. Authorize Interim City Manager to sign Services Agreement with Urban Habitat Environmental Landscapes for installation of Automated Irrigation System at Heber Park.

Background:

In May 2015, the City of Calexico was awarded a \$593,925.00 grant from the State of California Department of Housing and Community Development under Housing-Related Parks Program for the rehabilitation of Heber Park and Rockwood Plaza Park. The scope of work for said grant is the following:

Heber Park

Replacement and installation of playground equipment, canopy, safety surfacing, trash receptacles, benches and automated irrigation system.

Rockwood Park

Replacement and installation of playground equipment, canopy, safety surfacing, trash receptacles, benches and improvements to restroom facility.

<p>AGENDA ITEM 9</p>

Discussion & Analysis:

On February 17, 2016, the Public Works Department solicited proposals for the installation of automated irrigation system at Heber Park. On March 9, 2016, the Office of the City Clerk received two (2) proposals (RFP) from the following firms:

- | | |
|---|-------------|
| 1. Urban Habitat Environmental Landscapes | \$26,110.94 |
| 2. Advance Services Inc. | \$59,879.00 |

After carefully reviewing all bid documentation from Urban Habitat Environmental Landscapes. Public Works Staff has found that they meet all required guidelines and are the lowest responsible bidder. For this reason, Public Works Staff is requesting City Council authorization to award the proposal and authorize the Interim City Manager to sign an agreement with Urban Habitat Environmental Landscapes.

Fiscal Impact:

State Grant \$26,110.94.

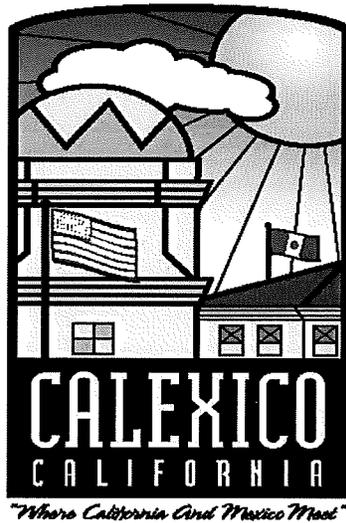
Coordinated With:

Public Works Department.

Attachment:

1. Request for Proposal for Installation of Automated Irrigation System.
2. Addendum No. 1.
3. Urban Habitat Environmental Landscapes Proposal.
4. Advance Services Inc. Proposal.
5. Services Agreement between the City of Calexico and Urban Habitat. Environmental Landscapes.

CITY OF CALEXICO



REQUEST FOR PROPOSALS FOR INSTALLATION OF AUTOMATED IRRIGATION SYSTEM AT HEBER PARK

Office of the City Manager
608 Heber Avenue
Calexico, CA 92231
760/768-2110
www.calexico.ca.gov

February 17, 2016

**REQUEST FOR PROPOSALS
AUTOMATED IRRIGATION SYSTEM**

I. NOTICE TO PROPOSERS

The City of Calexico is soliciting proposals (hereafter called proposal) for Automated Irrigation System per the specifications stated elsewhere in this solicitation document. Proposals shall be submitted in an envelope marked on the outside with the vendor's name and address titled:

AUTOMATED IRRIGATION SYSTEM

**City of Calexico Office
of the City Clerk
608 Heber Avenue
Calexico, CA 92231**

Proposals will be received at the above address until 2:00 PM, March 9, 2016. Faxed or email proposals will not be accepted. Proposals must be submitted in sufficient time to be received and time-stamped at the above location on or before the published date and time shown on the RFP. The City of Calexico will not be responsible for mail delivered from the post office. Offeror's must submit sealed proposals in the form of the executed Offer Form Sheet together with any material required by this RFP by the time and date specified.

Copies of the Request for Proposal can be obtained at the Office of the City Manager, City of Calexico, City Hall, 608 Heber Avenue, Calexico, California 92231 or by visiting the City of Calexico website at www.calexico.ca.gov.

Selected firm(s) will be required to obtain a City of Calexico Business License once proposal is awarded.

If you have any questions or require additional information, please do not hesitate to contact the Office of the City Manager at 760/768-2110.

Nick Fenley, Interim City Manager
City of Calexico

II. INSTRUCTIONS TO OFFEROR'S AUTOMATED IRRIGATION SYSTEM

1.0 GENERAL. The following instructions by the City of Calexico are intended to afford Offeror's an equal opportunity to participate in the proposal process.

1.1 Before submitting an offer to this solicitation, Offeror's shall familiarize themselves with all parts of this solicitation because these parts become a part of any resulting contract.

1.2 Offeror's shall familiarize themselves with existing conditions in the material and labor markets prior to submission of an offer. The fact that an offer (proposal) is submitted will be construed by the City of Calexico to indicate that the vendor agrees to carry out the furnishing of products/services in full accordance with the specifications and other contract documents notwithstanding existing material and labor markets' conditions.

1.3 Any explanation desired by a vendor regarding the meaning or interpretation of these instructions or any other RFP documents must be requested in writing to the Office of the City Manager, City Hall, 608 Heber Avenue, Calexico, CA 92231 with sufficient time allowed for a reply to reach Offeror's before the submission of their offers. Oral explanations or instructions will not be binding. Any information given to a prospective vendor will be furnished to all prospective Offeror's as an amendment to the RFP if such information is necessary to Offeror's in submitting proposals or if the lack of such information would be prejudicial to uninformed Offeror's.

1.4 A functional area expert or a day-to-day contract administrator or manager for the City may be identified elsewhere in this document. Functional area experts, day-to-day contract administrators/managers, and/or other City employees are not authorized to substantially amend this solicitation document or to substantially modify the subsequent contract. Substantially includes, but is not limited to, changes to delivery dates, place of delivery, and/or specifications that significantly alter the form, fit, and function of a product or the scope of work. Amendments to solicitation documents will be made by the Office of the City Manager. Modifications to contracts/agreements will be made by the Office of the City Manager in accordance with the City of Calexico's guidance, policies, and/or procedures. If a vendor acts on the guidance of a City employee that is not authorized to make changes, the vendor does so at his or her own risk or peril. Also, if a vendor attempts, or gains, a modification/amendment from a City employee that is not authorized to make changes, the vendor does this at his or her own risk or peril and risks the termination of his or her contract/agreement.

2.0 SPECIFICATIONS. Offeror's are expected to examine the specifications, standard provisions and all instructions. Failure to do so will be at the vendor's risk. Offers submitted on other than authorized forms or with different terms or provisions may be considered to be non-responsive.

3.0 INFORMATION REQUIRED. Each vendor shall furnish the information required by the RFP documents. The vendor should sign the Offer Form and return with the offer. Erasures or other changes must be initialed by the person signing the documents. Proposals signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the City.

4.0 SUBMISSION OF PROPOSALS. The vendor should propose his/her lowest and best price, F.O.B. destination, on each item. Proposals shall be submitted in an envelope marked on the outside with vendor's name and address and the RFP number/name. Proposals must be submitted in sufficient time to be received and date/time stamped at the Office of the City Clerk on or before the published deadline date and time shown on the RFP. Proposals received after the published time and date cannot be considered and will be returned unopened. Faxed or emailed proposals will not be accepted. Proposals may be delivered in person or addressed to:

City of Calexico Office
of the City Clerk
608 Heber Avenue
Calexico, CA 92231

4.1 All prices shall be entered on the proposal in ink or typewritten. All required signatures shall be original and in Ink.

4.2 Proposed price should be firm (fixed). If the vendor, however, believes it necessary to include in his/her price an economic price adjustment, such a proposal may be considered, but only as an alternate proposal. The economic price adjustment should give the maximum price increase (either % or \$) and the date and/or event at which the increase would be effective.

4.3 Failure to manually sign the offer may disqualify it.

5.0 DISCUSSIONS/NEGOTIATIONS. Discussions/negotiations may be conducted with Offeror's who are deemed to be within the final competitive range; however, the City reserves the right to award a contract without discussions/negotiations. The competitive range will be determined by City's Evaluation Committee and will include only those initial offers that the Evaluation Committee determines have a reasonable chance of being awarded a contract. If discussions/negotiations are conducted, Offeror's will be required to submit a best and final offer. The best and final offers may be required as early as 24 hours after completion of negotiations/discussions.

6.0 BEST AND FINAL OFFERS. If discussions/negotiations are conducted, Offeror's will be required to submit a best and final offer if price/delivery is changed from the originally submitted proposal. Best and final offers must be received by the date/time provided during discussions/negotiations or the originally submitted proposal will be used for further evaluation and award recommendation.

7.0 MODIFICATION OR WITHDRAWAL OF PROPOSALS. Proposals may be modified or withdrawn by written or telegraphic notice received by the City prior to the exact hour and date specified for receipt of proposals. A proposal may also be withdrawn in person by a vendor or his/her authorized representative prior to the opening date/time, provided the vendor's identity is made known and he or she signs a receipt for the proposal.

III. GENERAL CONDITIONS AUTOMATED IRRIGATION SYSTEM

1.0 SCOPE OF PROPOSAL.

1.1 The City of Calexico is seeking an individual firm to provide automated irrigation systems. Offeror's are allowed to include subcontractors, if and when appropriate.

1.2 The City will award this RFP to a respondent, based upon the evaluation of all proposals received. More details are included in the Specifications section of this Request for Proposal.

1.3 This proposal should include the vendor's comprehensive assortment for automated irrigation systems as detailed in the Specifications Section of this solicitation document.

1.4 This RFP is in six (6) parts/sections: I. Notice to Offeror's; II. Instructions to Offeror's; III. General Conditions; IV. Responsibilities of Offeror's; V. Specifications; and VI. Offer Forms. These parts are applicable and form a part of all contract documents and a part of the terms/conditions of all purchase orders for products included in the specifications and offer forms.

2.0 CONDITIONS OF PROPOSAL. The conditions of the proposal consist of the following and in the event of conflicting provisions, the order of importance is:

- Specifications (Section V.)
- Responsibility of Offeror's (Section IV.)
- Instructions to Offeror's (Section II.)
- General Conditions (Section III.)
- Notice to Offeror's (Section I.)
- Offer Forms (Section VI.)

3.0 PROPOSAL SUBMITTAL. A signed, submitted proposal constitutes an offer to perform the work and/or deliver the product(s) specified in the solicitation.

4.0 BRANDS AND MODELS. Brands and model numbers, where listed, are used for specification reference only, unless otherwise stated, and are not intended to limit consideration of an approved equal or equivalent item. Descriptive information or a sample may be requested for any item proposed other than the referenced item.

5.0 EQUIVALENT OR APPROVED EQUAL. Whenever a product is defined in any of the Conditions of the Proposal by describing a proprietary product, or by using the name/model of a manufacturer or vendor, the term "or other units considered to be equivalent", if not inserted, shall be implied. The specific product described shall be understood as indicating the type, function, and minimum standard of design, efficiency, and quality desired and shall not be construed in such a manner as to exclude products of comparable quality, design, and efficiency.

5.0 If a brand/model is offered other than the one specified, complete descriptive information of the offered product must be included with the proposal. Products being proposed as an equal to the items specified must be available for inspection/evaluation by the City. Samples, when requested, must be furnished within five (5) working days of the request at no cost to the City. If not destroyed during evaluation, samples may be returned to the vendor on request at vendor's expense.

5.1 Determination of equivalent or approved equal is at the sole discretion of the City.

5.2 If the vendor takes no exception to specifications of referenced data, brand names, models, etc. must be provided as specified.

6.0 SPECIFICATIONS. The vendor shall note in writing any deviations, including manufacturer and/or model, from the specifications and shall submit those changed specifications as alternates.

7.0 GENERAL EVALUATION. The City will generally award contracts based upon the lowest, responsive, responsible offer, price and other factors considered. It is not the practice of the City to purchase on the basis of low price alone. Contracts

may be awarded on a lump sum basis or on a unit price basis, provided that in the event a contract specifies a unit price basis, the compensation paid by the City shall be based upon the actual quantities supplied. In determining the "lowest responsible" offer, the City may consider, in addition to price, other factors such as compliance with the RFP documents, delivery requirements, suitability of product, costs of maintenance and operations, training requirements, warranties, availability of repairs or other services, past performance of the vendor, other factors contributing to the overall costs, both direct and indirect, related to an item, and compliance with the City policies and goals.

7.1 The City may award a contract to the responsive, responsible vendor with the "Best Value to the City". If unable to award as a package, the City will evaluate proposals and may award alternate awards.

7.2 Extensions of unit prices shown will be subject to verification by the City. In case of variation between the unit price and the extension, the unit price shall prevail.

8.0 EVALUATION. In determining to whom to award a contract, the City considers the following criteria:

1. The purchase price;
2. The reputation of the vendor and of the vendor's goods or services;
3. The quality of the vendor's goods or services;
4. The extent to which the goods or services meet the City's need;
5. The vendor's past relationship with the City;
6. The impact on the ability of the City to comply with vendor exceptions to the RFP;
7. The total long-term cost to the City to acquire the vendor's goods or services
8. Any other relevant factor specially listed in the request for bid or proposals

9.0 RESERVATION OF RIGHTS. The City expressly reserves the right to:

- (a) Reject or cancel any or all proposals;
- (b) Waive any defect, irregularity or informality in any proposal or RFP procedure;
- (c) Waive as an informality, minor deviations from specifications at a lower price than other proposals meeting all aspects of the specifications if it is determined that total cost is lower and the overall function is not impaired;
- (d) Reissue an RFP;
- (e) Consider and accept an alternate proposal as provided herein when most advantageous to the City;
- (f) The City has the right to cancel the contract with a thirty day written notice, without prejudice, for factors including, but not limited to, non-availability or non-appropriation of funds; and/or
- (g) Procure any item or services by other means to meet time-sensitive requirements.

10.0 ACCEPTANCE Notification of award will be by a letter. A term agreement will follow.

11.0 WARRANTY-PRICE. The price to be paid shall be that contained in vendor's proposal which vendor warrants to be no higher than vendor's current prices on orders by others for products of the kind and specification covered by this RFP for similar quantities under similar or like conditions and methods of purchase. In the event vendor breaches this warranty, the prices of the items shall be reduced to the vendor's current prices on orders by others, or in the alternative, the City may cancel this RFP without liability to vendor for breach.

13.0 TERMINATION. The City shall have the right to terminate for default all or any part of this contract if vendor breaches any of the terms hereof or if the vendor becomes insolvent or files any petition in bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City may have in law or equity, specifically including, but not limited to, the right to collect for damages or demand specific performance.

13.1 The City has the right to terminate this contract for convenience, without penalty, for non-appropriation or non-availability of funds by delivery to the vendor of a "Notice of Termination" specifying the extent to which performance hereunder is terminated and the date upon which such termination becomes effective.

14.0 ASSIGNMENT-DELEGATION. No right or interest in this contract shall be assigned or any obligation delegated by vendor without the written permission of the City.

15.0 INTERPRETATION. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used herein, and acceptance of a course of performance rendered under this RFP shall not be relevant to determine the meaning of this RFP even though the accepting party has knowledge of the performance and opportunity for objection.

16.0 INDEMNIFICATION AND HOLD HARMLESS: Except as otherwise expressly provided, vendor shall defend, indemnify, and hold the City harmless from and against all claims, liability, loss and expenses, including reasonable costs, collection expenses, and attorneys' fees incurred, which arise by reason of the acts or omissions of vendor, its agents or employees in the performance of its obligations under this contract.

17.0RESPONSE FORMS: Forms that are required to be completed and submitted along with your response. Failure to complete and submit these forms is grounds for disqualification of your offer. The required forms and the purpose they fulfill are:

17.1BID OFFER FORM – This serves as a confirmation that your pricing was not submitted in collusion with any other vendor offering a quotation on this project. It further serves as an affidavit of accuracy as to the information supplied by you on remaining required forms.

17.2PROPOSAL/BID FORM – This form is to complete pricing offered for this project and must be submitted with signature of person authorized to commit your company to this project at the price(s) offered.

**IV. RESPONSIBILITIES OF OFFEROR'S
AUTOMATED IRRIGATION SYSTEM**

- 1.0 The responsibility for compliance with this solicitation and the subsequent contract shall be with the Vendor.
- 2.0 Vendor's are expected to provide prompt service that is due upon issuance of a contract including warranties and identified deliverables. Past performance of Offeror's may be a factor in awarding future contracts.
- 3.0 Vendor's are expected to deliver service(s) and/or product(s) per specifications.
- 4.0 The warranty conditions for all supplies and/or equipment shall be considered manufacturer's minimum warranty unless otherwise agreed to in writing.
- 5.0 Please return only the offer forms and affidavits unless exceptions to the proposal document itself are made. Proposals must be received by March 9, 2016 @ 2:00 PM. There will not be exceptions from the March 9, 2016, 2:00 PM deadline. Offeror's are encouraged to respond early to make sure proposal responses have reached the correct department. Proposals must reach the Office of the City Clerk Receptionist (who will mark with the date and time) to be considered "received."
- 6.0 Submit one (1) original and five (5) copies of your proposal. In addition, Offeror's must supply one soft copy (electronic) in either CD Rom or flash drive with your original copy of the proposal.
- 7.0 Proposal Schedule:

Timeline	
Release RFP	February 17, 2016
RFP Due	March 9, 2016
Award Contract	March 15, 2016
Kick-off Meeting	TBD

V. SPECIFICATIONS

Scope of Work:

It is the intent of these specifications to describe the completed work to be performed under contract to furnish and install automated irrigation system at Heber Park in the City of Calexico. Unless otherwise provided, the contractor shall install all materials. Contractor shall furnish all supplies, tools, equipment and labor necessary for the completion of satisfactory work.

Time Schedule:

Work is to begin (5) five days after Notice to Proceed has been issued. The contract may be awarded based on best time frame required to complete the work.

Guarantee:

Installations shall be guaranteed for a period of one year from date of acceptance by the City. Any materials found to be defective during this period of guarantee shall be fully corrected to full satisfaction of the City within 30 days of notification to the Contractor. Ordinary wear and defects due to improper use are accepted.

Final Completion:

Upon completion of the work and before acceptance and final payment is made, the Contractor shall notify the City for inspection. The Contractor shall leave the work site in a neat and presentable condition. The contractor shall remove all trash from the City's property on a daily basis.

PART I - SCHEDULE OF ITEMS

Proposer agrees to provide the City of Calexico with an Agreement of Professional Services to furnish, install and remove irrigation system materials as required and to construct new irrigation system at Heber Park in the City of Calexico in accordance with the specifications, terms and conditions of the Request for Proposal at the below proposed prices. Firm Fixed Prices based on percentages are to be offered for the term of the contract, including option year(s), if exercised. Proposer must bid on all line items in order to be considered responsive to this solicitation and receive consideration for award.

The following is a sample list only and shall be completed by the proposer for the use of the City in computing costs. The proposer shall use the schedule of items submitted below in "1" through "14" as computation of a sample proposal. Irrigation systems may be required to be sized for each location that the contractor installs irrigation systems.

Contractor shall be paid per linear foot, square foot or by item for furnishing, installing or removing items for the irrigation systems. Contractor shall list the amount of linear feet, square foot or removal of items at each location with a diagram of the work and submit this information along with the invoice.

This Request for Proposal is to establish a Contract for irrigation systems construction service for Heber Park in the City of Calexico. Proposer agrees to provide and perform the necessary work with regard to the irrigation system as described herein, including providing the necessary manpower labor, transportation, materials, tools, equipment, insurance, parts, and other materials and accessories necessary to perform all services required in this agreement necessary to perform the work in accordance with the Specification, Terms and Conditions of this Request for Proposal.

Pricing shall include furnishing, installing or removing item in description.

ITEM NO.	DESCRIPTION	EST. QTY. UNIT	UNIT PRICE	TOTAL DOLLAR EXTENSION
1	Trenching for the automated irrigation system in soil and backfill	2,920 L.F.		
2	Excavation of soil for repair and backfill	500 S.F.		
3	Double check box with top	1 Each		
4	Double check three inch including all fittings, all piping from water source to double check plus permit	1 Each		
5	Electric valve or gate valve boxes with tops	8 Each		
6	Automatic electric valves (three inch) including all fittings	8 Each		
7	Gate valves (three inch) including all fittings	8 Each		
8	Irrigation controller 12 stations-Lockable metal Cabinet – weather proof – Baseline 3200R with Ethernet connection including data connection. All fittings and drill holes in the walls of the building	1 Each		
9	Minimum size of the control wire is 14 gauge	100 L.F.		
10	Pop up PGP rotor heads ¾" including all fittings	70 Each		
11	Pop up 12" heads ½" with ¼" D. or ½"D. or ¾" D. or full circle or other nozzles including all fittings	70 Each		
12	PVC schedule 40 pipe 1 inch including all fittings	2,000 L.F.		
13	PVC schedule 40 pipe 2 inch including all fittings	2,500 L.F.		
14	PVC class 200 pipe ½ inch including all fittings	400 L.F.		
	GRAND TOTAL			

THESE PAGES MUST BE RETURNED WITH THE RFP

CITY OF CALEXICO

TERMS AND CONDITIONS OF AGREEMENT

SHORT FORM, PROPOSAL, OR JOB ORDER CONTRACT

1.1 General

These General Terms and Conditions shall be made a part of and govern any Purchase Order and/or Contract, if any, resulting from the Contract Documents for the Work. When the purchase order is issued the text of the Agreement and Conditions of Agreement shall govern the performance of the work required.

The City will issue an Agreement for signature and return by the Vendor. Until received by the Vendor, signed by the Owner, and a purchase order issued and received by the Vendor, the Agreement is not in effect and has not been accepted.

1.2 Purchase Order and Rejection of Offer

At any time prior to the Vendor's receipt of a Purchase Order for this Work, the City, at its sole option and without cause, reject the offer described in this Agreement by delivering to the Vendor a written notice stating so. Such notice shall be signed by the Office of the City Manager's, and shall be effective on receipt by the Vendor.

If a valid Purchase Order is not issued by the City within 120 (one hundred twenty) calendar days of the Effective Date, the Agreement is agreed by the Vendor and the City to be a rejected offer.

The rejection of the offer described in this Agreement, either in writing, or by the City not issuing or failing to issue a valid Purchase Order, shall cause no obligation or duty to the City save return of bid security, if any, if rejection is without cause.

This Article does not pertain to rejection for cause by the City, or for the Vendor's failure to provide required bonds or insurance, or other Disqualification of Offeror's or Rejection of Proposals described in the Instructions to Offeror's.

A valid Purchase Order is a condition precedent for the obligation of the City to the terms of the Agreement.

1.3 Definitions

Whenever the following terms are used in these General Terms and Conditions or in the other Contract Documents the intent and meaning shall be interpreted as follows:

Contract Documents shall mean the documents that form the Contract between the City and the Vendor. The Contract Documents consist of the Agreement, Conditions of the Contract (this General Terms and Conditions, and any Additional or Special Conditions issued for this Agreement), Purchase Order, Specifications, Pricing and Delivery Schedule, Execution of Offer, Questionnaires or Statements of Qualification, and Submittals, Project Manual, and Drawings, all items listed in the Agreement, and all Addenda and Amendments issued prior to and after the execution of the Contract.

City shall mean the City of Calexico, or Owner.

Respondent shall mean the individual, partnership, corporation, or other entity responding to a Request for Proposal or Advertisement for Proposals.

Vendor shall mean the individual, partnership, corporation, or other entity awarded a Contract for construction or construction services under the Contract Documents, in accordance with the terms, conditions, and requirements herein.

Project shall mean the complete undertaking by Vendor to provide the goods and/or services contemplated by the Contract, sometimes called the "Work".

1.4 Entire Agreement

The Contract Documents, for all intents and purposes, are intended as the complete and exclusive statement of the agreement between the City and the Vendor and supersede all prior or contemporaneous agreements, negotiations, course of prior dealings, or oral representations relating to the subject matter hereof.

The terms and conditions of any purchase order, agreements, amendments, modifications, or other documents submitted by either party which conflict with, or in any way purport to amend or add to any of the terms and conditions of the Contract are specifically objected to by the other party and shall be of no force or effect, nor shall govern in any way the subject matter hereof, unless set forth in writing and signed by both parties.

1.5 Time of Performance

Time is of the essence in the rendering of services hereunder. Vendor agrees to perform all obligations and render services set forth per this Contract in accordance with the schedules herein and as mutually agreed upon between the City and Vendor during the term of this Contract.

A. Work Hours

All work required hereunder shall be performed during standard business hours, 7:30 a.m. to 4:30 p.m. local time, Monday through Friday, excluding City observed holidays, or as otherwise permitted.

1.6 Default

In the event that the Vendor fails to carry out or comply with any of the terms and conditions of the Contract with the City, the City may notify the Vendor of such failure or default in writing and demand that the failure or default be remedied within ten (10) days; and in the event that the Vendor fails to remedy such failure or default within the ten (10) day period, the City shall have the right to cancel the Contract.

Without limiting the foregoing, the following shall constitute a material breach by the Vendor, upon the occurrence of which the Vendor shall immediately notify the City; the Vendor ceases its business operation, makes a general assignment for the benefit of creditors, is adjudged bankrupt, or becomes insolvent.

The cancellation of the Contract, under any circumstances whatsoever, shall not effect or relieve Vendor from any obligation or liability that may have been incurred or will be incurred pursuant to the Contract and such cancellation by the City shall not limit any other right or remedy available to the City at law or in equity.

1.7 Termination For Owner's Convenience

- A. The Contract may be terminated, without penalty, by the City without cause by giving thirty (30) days' written notice of such termination to the Vendor.
- B. In no event shall such termination by the City as provided for under this Section give rise to any liability on the part of the City including, but not limited to, any claims of Vendor for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. City's sole obligation hereunder is to pay Vendor for products and/or services ordered and received prior to the date of termination.

1.8 Payment

- A. Prior to ten (10) days before the end of each calendar month during the term of this Agreement, Vendor shall

submit to the City an application for payment covering the services performed to that date, which application shall be accompanied by lien waivers and other forms, statements, invoices, and payroll reports that City may reasonably require to support the amount requested and to be submitted. The City will, within thirty (30) days from the date it receives such application and supporting documentation for payment, approve or disapprove the amount reflected in such application and if the City approves such amount or any portion of such amount, it shall promptly pay to Vendor the amount so approved, provided Vendor is not in breach of or in default under this Agreement. If the City disapproves any amount requested by Vendor, the City shall give Vendor specific reasons for its disapproval in writing.

The Payment Application must contain an affidavit by the Vendor that the work has been covered by the Payment Application has been completed in accordance with the Contract Documents, that all amounts have been paid by the Vendor for work which previous Payment Applications were issued and payment received from the Owner. The Payment Application must be notarized.

- B. Payment to the Vendor shall be equal to ninety-five percent (95%) of the amount due. The remaining portion shall be kept as retainage until thirty days after final completion of the work and submission of all affidavits, consents of surety, release of lien, and any bonds or warranties required by the Contract Documents or state law.
- C. The cumulative amounts of monthly progress payments as set forth in this Article ("Progress Payment") shall not exceed the amount of Vendor's total price, previously approved and accepted by the City, for the goods or services hereunder.
- D. Ten (10) days after final completion of the goods or services and acceptance thereof by the City or as soon thereafter as possible, Vendor shall submit a final request for payment ("Final Request") which shall set forth all amounts due and remaining unpaid to Vendor and upon approval thereof by the City, the City shall pay to Vendor the amount due ("Final Payment") under such Final Request, after acceptance of the work by the City Council, submittal of the final closeout documents, including consent of surety, warranties, bonds, release of liens, affidavit of payment of debts and claims, and completion of the punch list of any minor items outstanding.
- E. Any provision hereof to the contrary notwithstanding, the City shall not be obligated to make any payment (whether a Progress Payment or Final Payment) to Vendor hereunder if any one or more of the following conditions precedent exist:
 - 1. Vendor is in breach or default;
 - 2. Any part of such payment is attributable to goods or services which are not performed in accordance with this Contract, provided, however, such payment shall be made as to the part thereof attributable to goods and services which are performed in accordance with this Contract, or the resultant purchase order or agreement;
 - 3. Vendor has failed to make payments promptly to its consultants, sub Offeror's, suppliers, or other third parties used in connection with the goods or services for which the City has made payment to Vendor; or
 - 4. If the City, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the goods or services in accordance with this Contract, no additional payments will be due Vendor hereunder unless and until Vendor, at its sole cost, performs a sufficient portion of the goods and services so that such portion of the compensation then remaining unpaid is determined by the City to be sufficient to so complete the goods and services.
- F. No partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the goods or services to which such partial payment relates or relieve Vendor of any of its obligations hereunder with respect thereto.

- G. Vendor shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of its obligations pursuant to this Contract.
- H. The acceptance of Final Payment shall constitute a waiver of all claims by the Vendor except those previously made in writing and identified by the Vendor as unsettled at the time of the Final Request for payment.
- I. The City shall have the right to verify the details set forth in Vendor's billings, certificates, and statements, either before or after payment therefor, by (1) inspecting the books and records of Vendor at mutually convenient times; (2) examining any reports with respect to this Project; (3) interviewing Vendor's business employees; (4) visiting any place where performance of all or a portion of the Project occurs; and (5) other reasonable action.

Invoices must reference the City's purchase order number and must agree in every detail with the Contract.

1.9 Contract Amendments

The Contract may be amended within the Contract period by mutual consent of the parties. No modification or amendment to the Contract shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the Contract must be forwarded to the Office of the City Manager for prior review and approval.

1.10 Independent Vendor Status

Vendor recognizes that it is engaged as an independent Vendor and acknowledges that the City will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of the City by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of the City, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Vendor hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.

1.11 Compliance with Laws

Compliance with Laws and Regulations: No proposal for work will be accepted from a Contractor who is not licensed in accordance with the law under the provisions of Chapter 9 of Division III, of the Business and Professions Code of the State of California, as amended. The Contractor awarded the contract shall also submit the Contractor's Certification of Qualifications for License Classification contained in these contract documents along with the submission of the executed contract and acceptable sureties. All bids submitted and all contracts awarded hereunder must be submitted, filed, made and executed in accordance with all applicable laws of the State of California and of the United States of America which relate to bids and contracts of the nature referred to herein, whether such laws are expressly referred to herein or not.

MINIMUM WAGES: Pursuant to Federal Decision AG 3295 and in accordance with the provisions of Section 1770 to 1781 of the Labor Code, the City Council of the City of Calexico has adopted the latest publication of the General Prevailing Wage Rates entitled, "State of California, Department of Transportation, Equipment Rental Rates and General Prevailing Wage Rates."

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

1.12 Right to Audit

At any time during the term of this Contract and for a period of four (4) years thereafter the City or a duly authorized audit representative of the City, or the State of California, at its expense and at reasonable times, reserves the right to audit Vendor's records and books relevant to all services provided under this Contract. In the event such an audit by the City reveals any errors/overpayments by the City, Vendor shall refund the City the full amount of such overpayments within thirty (30) days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Vendor.

1.13 Access to Documents

To the extent applicable to this procurement, in accordance with applicable Public Law, Vendor agrees to allow, during and for a period of not less than four (4) years after the Contract term, access to this Contract and its books, documents, and records; and contracts between Vendor and its sub Offeror's or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, other governmental investigative agency, or their duly authorized representative(s), legally authorized to investigate alleged fraud, overcharge, or other diversion of funds from a City receiving Federal and State public funds.

1.14 Title and Risk of Loss

For goods to be provided by Vendor hereunder, if any, the title and risk of loss of the goods shall not pass to the City until the City actually receives, takes possession, and accepts the goods at the point or points of delivery.

1.15 Acceptance of Products and Services

All products furnished and all services performed under this Contract shall be to the satisfaction of the City and in accordance with the specifications, terms, and conditions of the Contract. The City reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.

1.16 Insurance

The successful proposer will be required, at all times during the continuation of the Contract and the performance of the Work, maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability and Property Damage Insurance, including contractual liability coverage. All insurance shall be insurers acceptable to the City of Calexico and with minimum limits as hereinafter set forth. Before commencement of the Work, the Contractor shall furnish to the City of Calexico certificates of insurance or other evidence satisfactory to the City of Calexico to the effect that such insurance has been procured and is in force.

For the purpose of the Contract, the Contractor shall carry the following types of Insurance in at least the limits specified below:

COVERAGES	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	\$1,000,000
Bodily Injury Liability Except Automobile	\$500,000 each occurrence
	\$1,000,000 aggregate
Property Damage Liability Except Automobile	\$1,000,000 each occurrence
	\$500,000 aggregate
Automobile Bodily Injury Liability	\$500,000 each person
	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$500,000 each occurrence

1.17 Indemnification

- A. To the fullest extent permitted by applicable law, the Vendor and its agents, partners, employees, and consultants (collectively "Indemnitors") shall and do agree to indemnify, protect, defend with counsel approved by the City, and hold harmless the City and its affiliated enterprises, representatives of the City, and their respective officers, directors, members of the board, partners, employees and agents (collectively "Indemnitees") from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses, including attorney fees, of any nature, kind, or description (collectively "Liabilities") of any person or entity whomsoever arising out of, caused by, or resulting from the performance of services, or provision of goods, by Vendor pursuant to this contract, or any part thereof, which are caused in whole or in part by any negligent act or omission of the Vendor, anyone directly or indirectly employed by it or anyone for whose acts it may be liable even if it is caused in part by the negligence or omission of any Indemnitee, so long as it is not caused by the sole negligence or willful misconduct of any Indemnitee. In the event more than one of the Indemnitors are connected with an accident or occurrence covered by this indemnification, then each of such Indemnitors shall be jointly and severally responsible to the Indemnitees for indemnification and the ultimate responsibility among such Indemnitors for the loss and expense of any such indemnification shall be settled by separate proceedings and without jeopardy to any Indemnitee. The provisions of this article shall not be construed to eliminate or reduce any other indemnification or right which the City or any of the Indemnitees has by law.
- B. Vendor shall protect and indemnify the City from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent, or copyright, arising by or out of any of the services performed or goods provided hereunder or the use by Vendor, or by the City at the direction of Vendor, of any article or material, provided that upon becoming aware of a suit or threat of suit for patent or copyright infringement, the City shall promptly notify Vendor and Vendor shall be given full opportunity to negotiate a settlement. Vendor does not warrant against infringement by reason of the City's design of articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, the City agrees to cooperate reasonably with Vendor and parties shall be entitled, in connection with any such litigation, to be represented by counsel at their own expense.
- C. The indemnities contained herein shall survive the termination of any agreement or purchase order for any reason whatsoever.

1.18 Other Benefits

It is understood and agreed that no benefits, payments or considerations received by Vendor for the performance of services associated with and pertinent to the resultant Contract shall accrue, directly or indirectly, to any employees, elected or appointed officers or representatives, or any other person identified as agents of, or who are by definition an employee of, the City.

1.19 Non-Disclosure

Vendor and the City acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Vendor or the City, unless (i) required by law, (ii) by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

1.20 Notices

Any notices required or permitted to be given shall be in writing and effective upon receipt and shall be sent by certified mail,

return receipt requested, postage pre-paid, addressed as follows:

- If to Vendor, to the Vendor's last known mailing address.
- If to the City: **Office of the City Manager
608 Heber Avenue
Calexico, CA 92231**

1.21 Contract Warranty and Guarantee

Warranty: Except as otherwise specified, the Vendor warrants and guarantees all Work against defects in materials, equipment or workmanship as per specifications from the date of final completion of the entire project or designated portions thereof.

Correction of Defects: Upon receipt of written notice from the Owner of the discovery of any defects, the Vendor shall remedy the defects and replace any property damaged therefrom occurring within the warranty and guarantee period. If the Vendor, after notice, fails to proceed promptly and remedy such defects within 30 days or within any other period of time which has been agreed to in writing, or to comply with the terms of the warranty and guarantee, the Owner may have the defects corrected and the Vendor shall be liable for all expenses incurred.

END OF GENERAL TERMS AND CONDITIONS

**CITY OF CALEXICO
CONSTRUCTION PROCEDURES**

PART 1 - GENERAL

1.1 DESCRIPTION

- A. Provide construction and facilities necessary to complete the work as described in the Contract Documents and Project Manual, as specified herein and in attached specification sections, and as needed for a complete and proper installation.
- B. Work is as specified at existing City's facilities, as described in the specifications and descriptions.
- C. These items apply to all work of all Sections.
- D. Vendor shall furnish :
 - 1. All permits, licenses, inspections, tools, equipment, vehicles, supervision, and incidental materials not listed in unit pricing, communications, and labor needed to complete the work within the necessary time frame.
 - 2. Trash removal and daily cleanup;
 - 3. Tool and materials security;
 - 4. All record keeping as required to show before condition of work, progress of work, and final completion of work, including photography of each of these phases.
- E. Work Not Mentioned:
 - 1. Requirements herein are intended to outline the service and materials required to perform these services. It shall be understood that it is not the intention to mention herein each and every minor item required in the performance of the services hereunder.
 - 2. The Vendor represents to have the necessary knowledge, abilities, skills and resources to completely perform said services by responding with a proposal or bid.
- F. Required Personnel Skill:
 - 1. All work must be performed by Offeror's that can maintain the technical level of work required and shown in their samples.
- G. Related Work:
 - 1. Documents affecting work of this Section include, but are not necessarily limited to; General Conditions, Supplementary General and Special Conditions, and sections in Division 1 of the Project Manual.

1.2 SUBMITTALS

- A. Product Data: Submit the following:
 - 1. Materials list of items proposed to be used or provided.
 - 2. Manufacturers' specifications and other data needed to prove compliance with the specified requirements.
- B. Manuals:
 - 1. Upon completion of the work, deliver to the City's Project Manager two copies of an operation and maintenance manual, containing:
 - a. One copy of the job progress manual.
 - b. Instructions on maintaining and operating any installed materials, finishes, or equipment.

1.3 QUALITY ASSURANCE

- A. Use adequate numbers of skilled workers who are thoroughly trained and experienced in the necessary crafts and who a completely familiar with the specified requirements and the methods needed for proper and timely performance of the work required.
- B. Codes and Regulations:
 - 1. In addition to complying with the specified requirements, comply with the pertinent regulations of governmental agencies having jurisdiction.
 - 2. In the event of conflict between or among specified requirements and pertinent regulations, the more stringent requirements will govern when so directed by the City's Project Manager.

- C. Quality Control:
 1. All work and material will be of good quality and in total compliance with local and regional governmental authorities having jurisdiction, and the City of Calexico Design Standards and guidelines, as amended.
 2. Maintain temporary facilities and controls in proper and safe condition throughout progress of the Work.
- D. Building Interior Air Quality:
 1. Vendor shall take all necessary measures to prevent fumes, dust, or other construction-related materials from interfering with the use of the building by the Owner.
 2. Offeror's shall consider the installation of temporary partitions, screening, temporary FIRE ALARM equipment, and any other necessary measure to accomplish this without additional cost to the Owner.

1.4 PRODUCT HANDLING

- A. Dispose of all materials, including used water and supplies in accordance with all EPA and other governmental requirements.

1.5 CONSTRUCTION SAFETY:

- A. Vendor is solely responsible for all worker safety when the project is underway.
- B. Vendor shall comply with these items:
 1. OSHA 1926 Health and Safety Standard:
 - a. The job foreman and other designated individuals shall be thoroughly familiar and follow the guidance and instructions contained in the latest edition of OSHA 1926 Health and Safety Standard for operations and material handing requirements for operations and material handing requirements.
 - b. Regulations of the Secretary of Labor: Provisions of 40 USC 333, as implemented, 36 F.R. 7339-7410 applies to this project and shall be complied with.
- C. Local Authority:
 1. Comply with all construction safety requirements of local authorities having jurisdiction, including, but not limited to; trenching operations, designated safety trained individuals, and construction engineering design required.
- D. Control of Site:
 1. The Vendor and his Foreman shall exercise all due caution to exclude the building occupants and the public from the work area and especially from contact with hazardous equipment.
- E. Protective Clothing and Equipment:
 1. Workmen are to wear protective clothing and equipment as recommended by the manufacturer of materials used. Including, but not limited to, safety vests and hard hats.

1.6 FIRE PROTECTION:

- A. Responsibility:
 1. Vendor is responsible for and shall take stringent precautions against fire.
 2. Vendor shall provide all equipment and materials he feels is necessary to protect the Owner's property and the Work.
- B. Compliance and Training:
 1. Fully comply with requirements of City, Insurance, and Fire Department authorities.
 2. The job foreman shall be fully trained in the use of the extinguishers and their placement on the site:
- C. Numbers and Locations of Extinguishers, Minimum:
 1. Sufficient operable extinguisher, with proper agent, shall be maintained on the work site at all times. Provide at least; one approved fire extinguisher of a minimum 20 - B:C classification within 30 ft. of each area where flammable materials are being applied or mixed, at other work areas requested by local fire officials or insurance recommendations.

1.7 SMOKING POLICY

- A. Smoking is prohibited in all buildings and City of Calexico property.

PART 2 - PRODUCTS

2.1 APPROVALS

- A. Submit equipment and materials proposed for approval by the City's Project Manager.
- B. New materials will follow City of Calexico Design Standards and guidelines, as amended, and the specifications in the Project Manual.

2.2 SOURCES

- A. All sources require prior approval to use for pricing or bidding.
- B. 'Or Equal' Systems:
 - 1. 'Or equal' systems may be submitted before the proposal deadline, but no systems will be approved after proposals are received.
 - 2. Delays in submitting equal systems for review may cause a proposal to be rejected without further consideration.
 - 3. Any systems approved as equal will be published in an addendum.
 - 4. No systems will be approved without submitting current, commercially available MSDS sheets, EPA approvals, and other product and manufacturer's data as listed in Section 01340.
 - 5. Vendor must certify that the Vendor will be responsible for all cost increases or accelerations required by the substitution, if approved.

2.3 JOB PROGRESS MANUAL

- A. Existing Condition:
 - 1. Provide a detailed before condition report for all areas prior to beginning work.
 - 2. Provide a detailed before condition of all equipment and furnishings that are to be removed, relocated, or stored.
 - 3. Document any other relevant information to determining pre-existing conditions that may influence the final acceptance of the work.
- B. Work Progress:
 - 1. Provide a work progress report, of where work was performed.
 - 2. Include products utilized on specific areas and include colors.
- C. EPA Lead Requirements
 - 1. This project is not intended as a lead abatement, however, if required, show conformance with EPA lead controls as required by EPA and other authorities having jurisdiction.

PART 3 - EXECUTION

3.1 SURFACE CONDITIONS

- A. Examine the areas and conditions under which work of this Section will be performed. Correct conditions detrimental to timely and proper completion of the Work.
- B. Do not proceed until unsatisfactory conditions are corrected.

3.2 COORDINATION

- A. Coordinate with other trades to assure proper and adequate provision in the work of those trades necessary for the work of this Section.

3.3 THE JOB PROCESS

- A. Verify Existing Conditions:
 - 1. All areas must be walked to determine conditions of existing surfaces to remain, for example, floors, carpet, and walls.
 - 2. All areas to have furniture moved must have condition of furniture documented.
- B. Establish Moving Schedule
 - 1. Any relocation or storage of City's furniture, fixtures, or equipment must be submitted and reviewed by

- the City.
- 2. Storage areas and the Vendor's security for these areas must be detailed in this submittal.
- C. Establish Inspection, Acceptance, and Protection Procedures.
 - 1. Submit for review the proposed inspection procedures, and when inspections will be required.
 - 2. Procedures for protecting areas not to receive new finishes or materials or repairs will be detailed for review.
 - 3. Acceptance procedures will be agreed to by the Owner before starting work.
- D. NOTICE TO OFFEROR'S:
 - 1. No consideration will be granted for any alleged misunderstanding of the material to be furnished or work to be done, it being understood that the submission of a proposal and the entering into a contract is an agreement with all of the items and conditions referred to herein.

3.4 BUILDING OCCUPANCY

- A. The Vendor shall maintain all discipline and controls necessary to avoid interrupting or disturbing the educational process at the building.

3.5 PERFORMANCE OF WORK

- A. See Specifications.

3.6 PERSONNEL

- A. Personnel:
 - 1. The Vendor is responsible to ensure all its employees, personnel or representatives entering onto City facilities abide by these provisions.
 - 2. No subcontract or third party personnel may perform services hereunder, except with the express prior written authorization of the City.
 - 3. In the event the Vendor's personnel have an accident at the work site the Vendor is required to submit, investigate and file an accident report.
- B. Removal:
 - 1. Owner reserves the right to request the removal of any Vendor's personnel for good cause.
- C. The City Telephone Usage:
 - 1. If service is available at an existing building, local calls shall be paid for by the City, however this use of City equipment may be revoked at the sole discretion of the City.
 - 2. Any long distance calls shall be paid for by the Vendor.
- D. Water
 - 1. Water necessary for the work shall be provided from existing building supply, if available. However this use of City water may be revoked at the sole discretion of the City.
 - 2. Any additional disposal fees or supply fees assessed by the local utility shall be paid for by the Vendor.
- E. Power, FIRE ALARM
 - 1. If available, reasonable electricity, power, lighting, and air conditioning necessary for the work shall be provided by the City.
 - 2. The Vendor shall enforce good work practices not to incur excessive charges.
 - 3. The Vendor will provide at all times a schedule building, and shall work within these times and agree to turn off and otherwise reduce utility use when not needed for work.
 - 4. Should the City believe the use is excessive, this use of the City power and FIRE ALARM may be revoked at the sole discretion of the City.
 - 5. Should services not be available and are required for the project, the Vendor shall provide and furnish these as required at the Vendor's expense.
- F. Project Supervision:
 - 1. Successful Offeror's shall appoint, by name, a company representative who will be the Project Supervisor.

2. The Project Supervisor will be responsible for but not limited to:
 - a. servicing all purchases covered by the contract resulting from the award of this proposal;
 - b. correct pricing, backorder control, invoice procedures, shipping;
 - c. manpower, supervision, reporting man-hours and materials cost, expediting, troubleshooting; in general to provide that the account will be maintained in a condition which will expedite ordering, deliveries, and allow the City to promptly pay all invoices due;
 - d. to see that all work is handled in a professional manner and to see that the proper size crew is scheduled and the work is completed properly.
 3. The Project Supervisor should attend the pre-proposal meeting.
- G. Safety Program and Instruction:
1. The Vendor must show it has a working safety program in effect.
 2. The City will require the Project Supervisor and the foreman to be schooled in the City's safety procedures and codes.
- H. Uniforms and Identification:
1. Vendor shall provide all employees with distinct, neat, and clean uniforms.
 2. The Vendor's employees shall be required to wear their uniforms while at City facilities.
 3. The Vendor shall ensure that employees wear safe and neat appearing footwear and safety belts while working at City's facilities.
 4. All Vendor Personnel will be required to wear identification badges at all times while on premises.
 5. All vehicles used by the Vendor to perform this contract must be clearly marked as belonging to the Vendor.
 6. Safety vests, hard hats, and safety glasses must be worn when appropriate along with ID badge at all times.
- I. Equipment
1. The Vendor's equipment must be clean and free of dirt and grease.
- J. Parking:
1. The Vendor will be responsible to work in only the assigned work areas and only park in the designated areas. When working in a secured area previous authorization must be obtained.
- K. Work Process:
1. Vendor shall diligently perform the work in accordance with good industry practices and in a workmanlike manner.
 2. The Vendor shall use such methods, supervision, to insure satisfactory quality of work conforming to the provisions of this contract.
 3. Vendor will be responsible for repair or replacement of any items damaged or ruined because of negligence.
 4. Vendor shall have the right to access only building public areas and those areas necessary to complete the scope of work of this agreement.
- L. Performance:
1. The Vendor agrees that no payment made under this agreement, shall be evidence of the performance of this agreements either wholly or in part, and that no payment shall be construed to be an acceptance of defective work or improper materials.
- M. Training:
1. Vendor will be expected to keep trained and proficient personnel at the job site and will ensure skill levels are kept at or above the state of the art standards for performing all aspects of this contract.

3.7 CLEANING AND PROTECTING

- A. Protect all finish installations, including equipment, from unauthorized use, prior to acceptance.
- B. Clean to final polished condition immediately prior to final acceptance.

- C. Repair all finishes and accessories damaged until accepted by Owner.

END OF CONSTRUCTION PROCEDURES

REQUIRED DOCUMENTATION AND SUBMITTALS

Offer Form

**VI. OFFER FORM
AUTOMATED IRRIGATION SYSTEMS**

To: City of Calexico

I, or we, the duly authorized undersigned, having carefully read the Instructions to Offeror's, General Conditions, Notice to Offeror's, Contract Specifications, Responsibilities of Offeror's, and Offer Forms, do hereby agree to enter into a contract with the City of Calexico by tendering this offer to perform the work required and/or provide the product(s) specified in this solicitation. I, or we, will deliver the product(s) per specifications found in this RFP document for the prices indicated.

I, or we, also certify to the accuracy of the certifications required (including, but not limited to, Felony Conviction Notice) which accompany this offer.

The prices in this offer have been determined independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter related to such prices, with any other vendor or with any competitor. I, or we, are authorized to submit this offer and have not been a party to any collusion among offer/Offeror's in restraint of freedom of competition by agreement to offer at a fixed price or to refrain from offering; or with any City of Calexico employee, City Council, or consultant as to quantity, quality, or price in the prospective contract, or in any terms of the prospective contract except in any authorized discussion(s) with Office of the City Manager personnel; or in any discussions or actions between offer/Offeror's and any City of Calexico employee, City Council, or consultant concerning exchange of money or other things of value for special consideration in the award of this contract.

_____ An individual proprietorship

_____ A partnership

_____ A corporation chartered under the laws of the State of _____, acting by its officers pursuant to its by-laws or a resolution of its Board of Directors

Company Officer:

Date: _____

Name of Firm: _____

Signature: _____

Firm's Address: _____

Street Address

Name: _____
Please Print

City _____ State _____ Zip _____

Title: _____
Please Print

Phone #: _____

E-mail: _____

Fax #: _____

**ENVELOPES SHOULD BE PLAINLY MARKED:
AUTOMATED IRRIGATION SYSTEMS**

THIS PAGE MUST BE RETURNED WITH THE RFP

**SERVICES AGREEMENT
BETWEEN
THE CITY OF CALEXICO AND**

This AGREEMENT is entered into this ____ day of ____, 20__, by and between the CITY OF CALEXICO, a municipal corporation and general law city ("CITY") and ___[name]___, a _____[type of organization]_____ ("COMPANY").

1. CONSIDERATION.

- A. As partial consideration, COMPANY agrees to perform the work listed in the SCOPE OF SERVICES, below;
- B. As additional consideration, COMPANY and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay COMPANY a sum not to exceed _____ dollars (\$_____) for COMPANY's services. CITY may modify this amount as set forth below. Unless otherwise specified by written amendment to this Agreement, CITY will pay this sum as specified in the attached Exhibit "A," which is incorporated by reference.

2. SCOPE OF SERVICES.

- A. COMPANY will perform services listed in the attached Exhibit "B," which is incorporated by reference.
- B. COMPANY will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the professional services required of COMPANY by this Agreement.

3. PERFORMANCE STANDARDS. While performing this Agreement, COMPANY will use the appropriate generally accepted professional standards of practice existing at the time of performance utilized by persons engaged in providing similar services. CITY will continuously monitor COMPANY's services. CITY will notify COMPANY of any deficiencies and COMPANY will have fifteen (15) days after such notification to cure any shortcomings to CITY's satisfaction. Costs associated with curing the deficiencies will be borne by COMPANY.

4. PAYMENTS. For CITY to pay COMPANY as specified by this Agreement, COMPANY must submit a detailed invoice to CITY which lists the hours worked and hourly rates for each personnel category and reimbursable costs (all as set forth in Exhibit "A") the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, the total cost of that work during the preceding billing month and a cumulative cash flow curve showing projected and actual expenditures versus time to date.

5. NON-APPROPRIATION OF FUNDS. Payments due and payable to COMPANY for current services are within the current budget and within an available, unexhausted and unencumbered appropriation

of the CITY. In the event the CITY has not appropriated sufficient funds for payment of COMPANY services beyond the current fiscal year, this Agreement will cover only those costs incurred up to the conclusion of the current fiscal year.

6. ADDITIONAL WORK.

- A. CITY's City Manager ("Manager") may determine, at the Manager's sole discretion, that COMPANY must perform additional work ("Additional Work") to complete the Scope of Work. If Additional Work is needed, the Manager will give written authorization to COMPANY to perform such Additional Work.
- B. If COMPANY believes Additional Work is needed to complete the Scope of Work, COMPANY will provide the Manager with written notification that contains a specific description of the proposed Additional Work, reasons for such Additional Work, and a detailed proposal regarding cost.
- C. Payments over \$50,000 for Additional Work must be approved by CITY's city council. All Additional Work will be subject to all other terms and provisions of this Agreement.

7. FAMILIARITY WITH WORK.

- A. By executing this Agreement, COMPANY agrees that it has:
 - i. Carefully investigated and considered the scope of services to be performed;
 - ii. Carefully considered how the services should be performed; and
 - iii. Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.
- B. If services involve work upon any site, COMPANY agrees that COMPANY has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing the services hereunder. Should COMPANY discover any latent or unknown conditions that may materially affect the performance of the services, COMPANY will immediately inform CITY of such fact and will not proceed except at COMPANY's own risk until written instructions are received from CITY.
- 8. TERM. The term of this Agreement will be from _____, to _____. Unless otherwise determined by written amendment between the parties, this Agreement will terminate in the following instances:
 - A. Completion of the work specified in Exhibit "A";
 - B. Termination as stated in Section 16.

9. TIME FOR PERFORMANCE.

- A. COMPANY will not perform any work under this Agreement until:
 - i. COMPANY furnishes proof of insurance as required under Section 23 of this Agreement; and

- ii. CITY gives COMPANY a written notice to proceed.
 - B. Should COMPANY begin work on any phase in advance of receiving written authorization to proceed, any such professional services are at COMPANY's own risk.
10. **TIME EXTENSIONS.** Should COMPANY be delayed by causes beyond COMPANY's control, CITY may grant a time extension for the completion of the contracted services. If delay occurs, COMPANY must notify the Manager within forty-eight hours (48 hours), in writing, of the cause and the extent of the delay and how such delay interferes with the Agreement's schedule. The Manager will extend the completion time, when appropriate, for the completion of the contracted services.
11. **CONSISTENCY.** In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the attached Exhibits; this Agreement supersedes any conflicting provisions. Any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below:
- A. Exhibit A: Scope of Work;
 - B. Exhibit B: Budget; and
 - C. Exhibit C: Proposal for Services.
12. **CHANGES.** CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by COMPANY and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.
13. **TAXPAYER IDENTIFICATION NUMBER.** COMPANY will provide CITY with a Taxpayer Identification Number.
14. **PERMITS AND LICENSES.** COMPANY, at its sole expense, will obtain and maintain during the term of this Agreement, all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.
15. **WAIVER.** CITY's review or acceptance of, or payment for, work product prepared by COMPANY under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from COMPANY's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.
16. **TERMINATION.**
- A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause.
 - B. COMPANY may terminate this Agreement at any time with CITY's mutual consent. Notice will be in writing at least thirty (30) days before the effective termination date.

- C. Upon receiving a termination notice, COMPANY will immediately cease performance under this Agreement unless otherwise provided in the termination notice. Except as otherwise provided in the termination notice, any additional work performed by COMPANY after receiving a termination notice will be performed at COMPANY's own cost; CITY will not be obligated to compensate COMPANY for such work.
 - D. Should termination occur, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports and other materials prepared by COMPANY will, at CITY's option, become CITY's property, and COMPANY will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination, not to exceed the total costs under Section 1(C).
 - E. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.
 - F. By executing this document, COMPANY waives any and all claims for damages that might otherwise arise from CITY's termination under this Section.
- 17. OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports prepared by COMPANY under this Agreement are CITY's property. COMPANY may retain copies of said documents and materials as desired, but will deliver all original materials to CITY upon CITY's written notice. CITY agrees that use of COMPANY's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at CITY's own risk.
- 18. PUBLICATION OF DOCUMENTS.** Except as necessary for performance of service under this Agreement, no copies, sketches, or graphs of materials, including graphic art work, prepared pursuant to this Agreement, will be released by COMPANY to any other person or public CITY without CITY's prior written approval. All press releases, including graphic display information to be published in newspapers or magazines, will be approved and distributed solely by CITY, unless otherwise provided by written agreement between the parties.
- 19. INDEMNIFICATION.**
- A. COMPANY agrees to the following:
 - i. Indemnification for Professional Services. COMPANY will save harmless and indemnify and at CITY's request reimburse defense costs for CITY and all its officers, volunteers, employees and representatives from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising from any negligent or wrongful act, error or omission by COMPANY or any of COMPANY's officers, agents, employees, or representatives, in the performance of this Agreement, except for such loss or damage arising from CITY's sole negligence or willful misconduct.
 - ii. Indemnification for other Damages. COMPANY indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance, except for such loss or damage arising from CITY's sole negligence or willful misconduct. Should CITY be named in any suit, or should any claim be

brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, COMPANY will defend CITY (at CITY's request and with counsel satisfactory to CITY) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

- B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and certified volunteers.
 - C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.
 - D. The requirements as to the types and limits of insurance coverage to be maintained by COMPANY as required by Section 23, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by COMPANY pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.
20. **ASSIGNABILITY.** This Agreement is for COMPANY's professional services. COMPANY's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.
21. **INDEPENDENT CONTRACTOR.** CITY and COMPANY agree that COMPANY will act as an independent contractor and will have control of all work and the manner in which is it performed. COMPANY will be free to contract for similar service to be performed for other employers while under contract with CITY. COMPANY is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct COMPANY as to the details of doing the work or to exercise a measure of control over the work means that COMPANY will follow the direction of the CITY as to end results of the work only.
22. **AUDIT OF RECORDS.** COMPANY will maintain full and accurate records with respect to all services and matters covered under this Agreement. CITY will have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcript therefrom, and to inspect all program data, documents, proceedings and activities. COMPANY will retain such financial and program service records for at least three (3) years after termination or final payment under this Agreement.
23. **INSURANCE.**
- A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, COMPANY will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

Type of Insurance	Limits
Commercial general liability:	\$1,000,000
Professional Liability	\$1,000,000
Business automobile liability	\$1,000,000
Workers compensation	Statutory requirement
 - B. Commercial general liability insurance will meet or exceed the requirements of the most

recent ISO-CGL Form. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name CITY, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess thereto. Such endorsement must be reflected on ISO Form No. CG 20 10 11 85 or 88, or equivalent. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to CITY.

- C. Professional liability coverage will be on an "occurrence basis" if such coverage is available, or on a "claims made" basis if not available. When coverage is provided on a "claims made basis," COMPANY will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover COMPANY for all claims made by CITY arising out of any errors or omissions of COMPANY, or its officers, employees or agents during the time this Agreement was in effect.
 - D. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).
 - E. COMPANY will furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII."
 - F. Should COMPANY, for any reason, fail to obtain and maintain the insurance required by this Agreement, CITY may obtain such coverage at COMPANY's expense and deduct the cost of such insurance from payments due to COMPANY under this Agreement or terminate pursuant to Section 16.
24. **USE OF SUBCONTRACTORS.** COMPANY must obtain CITY's prior written approval to use any COMPANYs while performing any portion of this Agreement. Such approval must approve of the proposed COMPANY and the terms of compensation.
25. **INCIDENTAL TASKS.** COMPANY will meet with CITY monthly to provide the status on the project, which will include a schedule update and a short narrative description of progress during the past month for each major task, a description of the work remaining and a description of the work to be done before the next schedule update.
26. **NOTICES.** All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

If to COMPANY:

Attention: _____

If to CITY:
City of Calexico
608 Heber Avenue
Calexico, CA 92231
Attention: City Manager

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

27. **CONFLICT OF INTEREST.** COMPANY will comply with all conflict of interest laws and regulations including, without limitation, CITY's conflict of interest regulations.
28. **SOLICITATION.** COMPANY maintains and warrants that it has not employed nor retained any company or person, other than COMPANY's bona fide employee, to solicit or secure this Agreement. Further, COMPANY warrants that it has not paid nor has it agreed to pay any company or person, other than COMPANY's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should COMPANY breach or violate this warranty, CITY may rescind this Agreement without liability.
29. **THIRD PARTY BENEFICIARIES.** This Agreement and every provision herein is generally for the exclusive benefit of COMPANY and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of COMPANY's or CITY's obligations under this Agreement.
30. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Ventura County.
31. **COMPLIANCE WITH LAW.** COMPANY agrees to comply with all federal, state, and local laws applicable to this Agreement.
32. **ENTIRE AGREEMENT.** This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written. There are three (3) Attachments to this Agreement. This Agreement will bind and inure to the benefit of the parties to this Agreement and any subsequent successors and assigns.
33. **RULES OF CONSTRUCTION.** Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.
34. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.
35. **AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment. CITY's executive manager, or designee, may execute any such amendment on behalf of CITY.
36. **ACCEPTANCE OF FACSIMILE SIGNATURES.** The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature will be treated in all respects as having the same effect as

an original signature.

- 37. **CAPTIONS.** The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.
- 38. **TIME IS OF ESSENCE.** Time is of the essence for each and every provision of this Agreement.
- 39. **FORCE MAJEURE.** Should performance of this Agreement be prevented due to fire, flood, explosion, acts of terrorism, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' reasonable control, then the Agreement will immediately terminate without obligation of either party to the other.
- 40. **STATEMENT OF EXPERIENCE.** By executing this Agreement, COMPANY represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. COMPANY represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private COMPANYS, and experience in dealing with public agencies all suggest that COMPANY is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public CITY.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF CALEXICO

COMPANY

 Nick Fenley,
 Interim City Manager

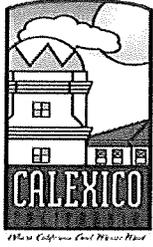
ATTEST:

 Gabriela Garcia,
 Deputy City Clerk

Taxpayer ID No. _____

APPROVED AS TO FORM:

 Carlos Campos,
 Interim City Attorney



CITY OF CALEXICO

608 Heber Ave.
Calexico, CA 92231-2840
Tel: 760.768.2110
Fax: 760.357.3831
www.calexico.ca.gov
e-mail:citymanager@calexico.ca.gov

OFFICE OF THE CITY MANAGER

**REQUEST FOR PROPOSALS
INSTALLATION OF AUTOMATED IRRIGATION SYSTEM
AT
HEBER PARK
Addendum No. 1
February 23, 2016**

This Addendum forms a part of the Request for Proposals (RFP) for the above identified projects and modifies the original specifications as noted below. Portions of the contract not specifically mentioned in this Addendum, remain in force. All trades affected shall be fully advised of these changes, deletions, and additions.

MANDATORY PRE-BID CONFERENCE

Bidders are required to attend a pre-bid meeting at 9:00 a.m. on Tuesday, March 1, 2016. The meeting will be held at Heber Park, 900 Block of Harold Avenue, Calexico, California 92231.

RESPONSES TO QUESTIONS

1. Item# 3 Double check box with top. Is this a brass check valve, installed above or below the surface? If above, must this be installed in a metal back flow cage? Or below the surface, installed in a plastic box. Also, does this check valve need to be "Lead free"?

It is a 3" RP lead free backflow installed on the surface with a cage.

2. Item# 5 Electric valve or gate valve box with tops. Is the city referring to a plastic rectangle valve box?

Yes.

3. Item# 7 Gate valves including all fitting. Plastic or brass gate valve?

It is just one valve to turn the water off before the backflow.

This Addendum was sent via fax. Please acknowledge receipt of this Addendum by signing and returning a faxed copy to 760/357-3831. Also include a copy of the Addendum in your proposal package.

Sincerely,

Nick Fenley
Interim City Manager

Viva Calexico!

ACCEPTANCE OF ADDENDUM

Receipt of the above-mentioned ADDENDUM No. 1, is hereby acknowledged by:

Company Name

This the _____ day of _____, 2016

By: _____

Signature: _____ Title: _____

**VI. OFFER FORM
AUTOMATED IRRIGATION SYSTEMS**

To: City of Calexico

I, or we, the duly authorized undersigned, having carefully read the Instructions to Offeror's, General Conditions, Notice to Offeror's, Contract Specifications, Responsibilities of Offeror's, and Offer Forms, do hereby agree to enter into a contract with the City of Calexico by tendering this offer to perform the work required and/or provide the product(s) specified in this solicitation. I, or we, will deliver the product(s) per specifications found in this RFP document for the prices indicated.

I, or we, also certify to the accuracy of the certifications required (including, but not limited to, Felony Conviction Notice) which accompany this offer.

The prices in this offer have been determined independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter related to such prices, with any other vendor or with any competitor. I, or we, are authorized to submit this offer and have not been a party to any collusion among offer/Offeror's in restraint of freedom of competition by agreement to offer at a fixed price or to refrain from offering; or with any City of Calexico employee, City Council, or consultant as to quantity, quality, or price in the prospective contract, or in any terms of the prospective contract except in any authorized discussion(s) with Office of the City Manager personnel; or in any discussions or actions between offer/Offeror's and any City of Calexico employee, City Council, or consultant concerning exchange of money or other things of value for special consideration in the award of this contract.

_____ An individual proprietorship

_____ A partnership

X A corporation chartered under the laws of the State of California , acting by its officers pursuant to its by-laws or a resolution of its Board of Directors

Company Officer:

Date: 3/8/2016

Name of Firm: Urban Habitat Environmental Landscapes

Signature: Brett Brennan

Firm's Address: P.O. Box 1177
Street Address

Name: Brett Brennan
Please Print

La Quinta Ca 92247
City State Zip

Title: COO
Please Print

Phone #: 760.296.3603

E-mail: Brett@MyUrbanHabitat.com

Fax #: 855.469.4224

**ENVELOPES SHOULD BE PLAINLY MARKED:
AUTOMATED IRRIGATION SYSTEMS**

THIS PAGE MUST BE RETURNED WITH THE RFP

Pricing shall include furnishing, installing or removing item in description.

ITEM NO.	DESCRIPTION	EST. QTY. UNIT	UNIT PRICE	TOTAL DOLLAR EXTENSION
1	Trenching 12" depth for irrigation piping, backfill, compacted	3,130 L.F.	\$1.92 LF	\$5,696.60
2	1.00" PVC Schedule 40 installed with as needed fittings	2,810 L.F.	\$0.98 LF	\$2,753.80
3	1.50" PVC Schedule 40 installed with as needed fittings	320 L.F.	\$1.52 LF	\$486.85
4	Backflow with vandal proof lockable metal enclosure	1 Each	\$2,797.62	\$2,297.62
5	Irrigation control valves with valve box, rock, bricks	8 Each	\$342.42	\$2,739.36
6	Irrigation controller in lockable cabinet-interior. Wall mounted with rain gauge.	1 Each	\$2,703.36	\$2,703.36
7	PVC ball/gate valve with 10" round valve box	4 each	\$85.23	\$340.92
7	6" pop-up rotor with swing joint	63 Each	\$50.61	\$3,188.43
8	GRAND TOTAL			\$20,206.94
9	Alternate:			
10	1"X4" plastic header board	1,200 LF	\$4.92 LF	\$5,904.00
11				
12				
13				
14				

THESE PAGES MUST BE RETURNED WITH THE RFP

**VI. OFFER FORM
AUTOMATED IRRIGATION SYSTEMS**

To: City of Calexico

I, or we, the duly authorized undersigned, having carefully read the Instructions to Offeror's, General Conditions, Notice to Offeror's, Contract Specifications, Responsibilities of Offeror's, and Offer Forms, do hereby agree to enter into a contract with the City of Calexico by tendering this offer to perform the work required and/or provide the product(s) specified in this solicitation. I, or we, will deliver the product(s) per specifications found in this RFP document for the prices indicated.

I, or we, also certify to the accuracy of the certifications required (including, but not limited to, Felony Conviction Notice) which accompany this offer.

The prices in this offer have been determined independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter related to such prices, with any other vendor or with any competitor. I, or we, are authorized to submit this offer and have not been a party to any collusion among offer/offeror's in restraint of freedom of competition by agreement to offer at a fixed price or to refrain from offering; or with any City of Calexico employee, City Council, or consultant as to quantity, quality, or price in the prospective contract, or in any terms of the prospective contract except in any authorized discussion(s) with Office of the City Manager personnel; or in any discussions or actions between offer/offeror's and any City of Calexico employee, City Council, or consultant concerning exchange of money or other things of value for special consideration in the award of this contract.

An individual proprietorship

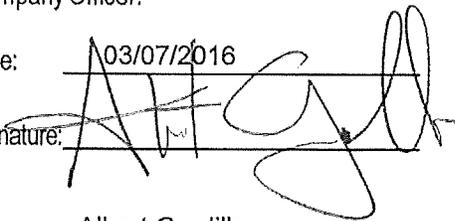
A partnership

A corporation chartered under the laws of the State of Nevada, acting by its officers pursuant to its by-laws or a resolution of its Board of Directors

Company Officer:

Date: 03/07/2016

Name of Firm: Advance Service Inc

Signature: 

Firm's Address: 255 E 5th Street

Street Address

Name: Albert Gradillas

Calexico, CA 92231

Please Print

City

State

Zip

Title: President/Owner

Phone #:

(760) 357-5361

Please Print

E-mail: albertgradillas@advanceserviceinc.com

Fax #:

(760) 353-9758

**ENVELOPES SHOULD BE PLAINLY MARKED:
AUTOMATED IRRIGATION SYSTEMS**

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www.ADVANCESERVICEINC.com

Ph. (760) 357-5361; Fax (760) 353-9758

Estimate

Keeping America Beautiful
www.ADVANCESERVICEINC.com
255 East Fifth Street
Calexico, CA. 92231

Date	Estimate #
3/7/2016	14756

To:
City of Calexico
608 Heber Avenue
Calexico, CA. 92231

Job:
Heber Park
Calexico, CA 92231

Approval Signature & Date: _____

ORIGINAL

CODE	DESCRIPTION	Total
L	<p>IRRIGATION SYSTEM INSTALLATION SERVICE</p> <p>Labor service to furnish, install and remove irrigation system materials as required and to construct new irrigation system at Heber Park in the City of Calexico in accordance with the specifications, terms and conditions of the Request for Proposal, as follows: 1-Trenching for the automated irrigation system in soil and backfill 2,920 L.F.,2-Excavation of soil for repair and backfill 500 S.F.,3-Double check box with top 1 Each.4-Double check three inch including all fittings, all piping from water source to double check plus permit 1 Each.5-Electric valve or gate valve boxes with tops 8 Each.6-Automatic electric valves (three inch) including all fittings 8 Each.7-Gate valves (three inch) including all fittings 8 Each. 8-Irrigation controller 12 stations-Lockable metal Cabinet – weather proof – Baseline 3200R with Ethernet connection including data connection. All fittings and drill holes in the walls of the building 1 Each. 9-Minimum size of the control wire is 14 gauge 100 L.F. 10-Pop up PGP rotor heads ¾” including all fittings 70 Each. 11-Pop up 12” heads ½” with ¼” D. or ½”D. or ¾” D. or full circle or other nozzles including all fittings 70 Each. 12-PVC schedule 40 pipe 1 inch including all fittings 2,000 L.F. 13-PVC schedule 40 pipe 2 inch including all fittings 2,500 L.F. 14-PVC class 200 pipe ½ inch including all fittings 400 L.F.</p>	59,879.00
PN	<p>PLEASE NOTE: We are a licensed contractor, a CLCA member, a qualified herbicide and pesticide applicator. We carry \$2,000,000.00 general liability, workman compensation and vehicle liability insurance.</p>	0.00
	<p><i>Albert Gradillas</i> (Signature) 3/9/16 Subtotal</p>	\$59,879.00
	Sales Tax (8.5%)	\$0.00
	Total	\$59,879.00

Qualified Applicator
Certificate QC 20195
Contractors State License C27 750536

E-mail
albertgradillas@advanceserviceinc.com

Pricing shall include furnishing, installing or removing item in description.

ITEM NO.	DESCRIPTION	EST. QTY. UNIT	UNIT PRICE	TOTAL DOLLAR EXTENSION
1	Trenching for the automated irrigation system in soil and backfill	2,920 L.F.		3,880.00
2	Excavation of soil for repair and backfill	500 S.F.		2,360.00
3	Double check box with top	1 Each		7,980.00
4	Double check three inch including all fittings, all piping from water source to double check plus permit	1 Each		6,730.00
5	Electric valve or gate valve boxes with tops	8 Each		2,988.00
6	Automatic electric valves (three inch) including all fittings	8 Each		6,860.00
7	Gate valves (three inch) including all fittings	8 Each		2,905.00
8	Irrigation controller 12 stations-Lockable metal Cabinet – weather proof – Baseline 3200R with Ethernet connection including data connection. All fittings and drill holes in the walls of the building	1 Each		3,940.00
9	Minimum size of the control wire is 14 gauge	100 L.F.		550.00
10	Pop up PGP rotor heads ¾" including all fittings	70 Each		4,860.00
11	Pop up 12" heads ½" with ¼" D. or ½"D. or ¾" D. or full circle or other nozzles including all fittings	70 Each		2,050.00
12	PVC schedule 40 pipe 1 inch including all fittings	2,000 L.F.		5,886.00
13	PVC schedule 40 pipe 2 inch including all fittings	2,500 L.F.		7,110.00
14	PVC class 200 pipe ½ inch including all fittings	400 L.F.		1,780.00
	GRAND TOTAL			59,879.00

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**SERVICES AGREEMENT
BETWEEN
THE CITY OF CALEXICO AND URBAN HABITAT ENVIRONMENTAL LANDSCAPES**

This AGREEMENT is entered into this 5th day of April, 2016, by and between the CITY OF CALEXICO, a municipal corporation and general law city ("CITY") and Urban Environmental Landscapes ("COMPANY").

1. CONSIDERATION.

- A. As partial consideration, COMPANY agrees to perform the work listed in the SCOPE OF SERVICES, below;
- B. As additional consideration, COMPANY and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay COMPANY a sum not to exceed twenty-six thousand one hundred ten dollars and ninety-four cents (\$26,110.94) for COMPANY's services. CITY may modify this amount as set forth below. Unless otherwise specified by written amendment to this Agreement, CITY will pay this sum as specified in the attached Exhibit "A," which is incorporated by reference.

2. SCOPE OF SERVICES.

- A. COMPANY will perform services listed in the attached Exhibit "B," which is incorporated by reference.
- B. COMPANY will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the professional services required of COMPANY by this Agreement.

3. PERFORMANCE STANDARDS. While performing this Agreement, COMPANY will use the appropriate generally accepted professional standards of practice existing at the time of performance utilized by persons engaged in providing similar services. CITY will continuously monitor COMPANY's services. CITY will notify COMPANY of any deficiencies and COMPANY will have fifteen (15) days after such notification to cure any shortcomings to CITY's satisfaction. Costs associated with curing the deficiencies will be borne by COMPANY.

4. PAYMENTS. For CITY to pay COMPANY as specified by this Agreement, COMPANY must submit a detailed invoice to CITY which lists the hours worked and hourly rates for each personnel category and reimbursable costs (all as set forth in Exhibit "A") the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, the total cost of that work during the preceding billing month and a cumulative cash flow curve showing projected and actual expenditures versus time to date.

5. NON-APPROPRIATION OF FUNDS. Payments due and payable to COMPANY for current services

are within the current budget and within an available, unexhausted and unencumbered appropriation of the CITY. In the event the CITY has not appropriated sufficient funds for payment of COMPANY services beyond the current fiscal year, this Agreement will cover only those costs incurred up to the conclusion of the current fiscal year.

6. ADDITIONAL WORK.

- A. CITY's City Manager ("Manager") may determine, at the Manager's sole discretion, that COMPANY must perform additional work ("Additional Work") to complete the Scope of Work. If Additional Work is needed, the Manager will give written authorization to COMPANY to perform such Additional Work.
- B. If COMPANY believes Additional Work is needed to complete the Scope of Work, COMPANY will provide the Manager with written notification that contains a specific description of the proposed Additional Work, reasons for such Additional Work, and a detailed proposal regarding cost.
- C. Payments over \$10,000 for Additional Work must be approved by CITY's city council. All Additional Work will be subject to all other terms and provisions of this Agreement.

7. FAMILIARITY WITH WORK.

- A. By executing this Agreement, COMPANY agrees that it has:
 - i. Carefully investigated and considered the scope of services to be performed;
 - ii. Carefully considered how the services should be performed; and
 - iii. Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.
 - B. If services involve work upon any site, COMPANY agrees that COMPANY has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing the services hereunder. Should COMPANY discover any latent or unknown conditions that may materially affect the performance of the services, COMPANY will immediately inform CITY of such fact and will not proceed except at COMPANY's own risk until written instructions are received from CITY.
8. TERM. The term of this Agreement will be from April 5, 2016 to December 31, 2016. Unless otherwise determined by written amendment between the parties, this Agreement will terminate in the following instances:
- A. Completion of the work specified in Exhibit "A";
 - B. Termination as stated in Section 16.

9. TIME FOR PERFORMANCE.

- A. COMPANY will not perform any work under this Agreement until:
 - i. COMPANY furnishes proof of insurance as required under Section 23 of this

Agreement; and

- ii. CITY gives COMPANY a written notice to proceed.
- B. Should COMPANY begin work on any phase in advance of receiving written authorization to proceed, any such professional services are at COMPANY's own risk.
10. **TIME EXTENSIONS.** Should COMPANY be delayed by causes beyond COMPANY's control, CITY may grant a time extension for the completion of the contracted services. If delay occurs, COMPANY must notify the Manager within forty-eight hours (48 hours), in writing, of the cause and the extent of the delay and how such delay interferes with the Agreement's schedule. The Manager will extend the completion time, when appropriate, for the completion of the contracted services.
11. **CONSISTENCY.** In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the attached Exhibits; this Agreement supersedes any conflicting provisions. Any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below:
- A. Exhibit A: Scope of Work;
 - B. Exhibit B: Budget; and
 - C. Exhibit C: Proposal for Services.
12. **CHANGES.** CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by COMPANY and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.
13. **TAXPAYER IDENTIFICATION NUMBER.** COMPANY will provide CITY with a Taxpayer Identification Number.
14. **PERMITS AND LICENSES.** COMPANY, at its sole expense, will obtain and maintain during the term of this Agreement, all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.
15. **WAIVER.** CITY's review or acceptance of, or payment for, work product prepared by COMPANY under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from COMPANY's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.
16. **TERMINATION.**
- A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause.
 - B. COMPANY may terminate this Agreement at any time with CITY's mutual consent. Notice will be in writing at least thirty (30) days before the effective termination date.

- C. Upon receiving a termination notice, COMPANY will immediately cease performance under this Agreement unless otherwise provided in the termination notice. Except as otherwise provided in the termination notice, any additional work performed by COMPANY after receiving a termination notice will be performed at COMPANY's own cost; CITY will not be obligated to compensate COMPANY for such work.
 - D. Should termination occur, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports and other materials prepared by COMPANY will, at CITY's option, become CITY's property, and COMPANY will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination, not to exceed the total costs under Section 1(C).
 - E. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.
 - F. By executing this document, COMPANY waives any and all claims for damages that might otherwise arise from CITY's termination under this Section.
17. **OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports prepared by COMPANY under this Agreement are CITY's property. COMPANY may retain copies of said documents and materials as desired, but will deliver all original materials to CITY upon CITY's written notice. CITY agrees that use of COMPANY's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at CITY's own risk.
18. **PUBLICATION OF DOCUMENTS.** Except as necessary for performance of service under this Agreement, no copies, sketches, or graphs of materials, including graphic art work, prepared pursuant to this Agreement, will be released by COMPANY to any other person or public CITY without CITY's prior written approval. All press releases, including graphic display information to be published in newspapers or magazines, will be approved and distributed solely by CITY, unless otherwise provided by written agreement between the parties.
19. **INDEMNIFICATION.**
- A. COMPANY agrees to the following:
 - i. Indemnification for Professional Services. COMPANY will save harmless and indemnify and at CITY's request reimburse defense costs for CITY and all its officers, volunteers, employees and representatives from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising from any negligent or wrongful act, error or omission by COMPANY or any of COMPANY's officers, agents, employees, or representatives, in the performance of this Agreement, except for such loss or damage arising from CITY's sole negligence or willful misconduct.
 - ii. Indemnification for other Damages. COMPANY indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance, except for such loss or damage arising from CITY's sole negligence

or willful misconduct. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, COMPANY will defend CITY (at CITY's request and with counsel satisfactory to CITY) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

- B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and certified volunteers.
 - C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.
 - D. The requirements as to the types and limits of insurance coverage to be maintained by COMPANY as required by Section 23, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by COMPANY pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.
20. **ASSIGNABILITY.** This Agreement is for COMPANY's professional services. COMPANY's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.
21. **INDEPENDENT CONTRACTOR.** CITY and COMPANY agree that COMPANY will act as an independent contractor and will have control of all work and the manner in which is it performed. COMPANY will be free to contract for similar service to be performed for other employers while under contract with CITY. COMPANY is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct COMPANY as to the details of doing the work or to exercise a measure of control over the work means that COMPANY will follow the direction of the CITY as to end results of the work only.
22. **AUDIT OF RECORDS.** COMPANY will maintain full and accurate records with respect to all services and matters covered under this Agreement. CITY will have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcript therefrom, and to inspect all program data, documents, proceedings and activities. COMPANY will retain such financial and program service records for at least three (3) years after termination or final payment under this Agreement.
23. **INSURANCE.**
- A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, COMPANY will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

Type of Insurance	Limits
Commercial general liability:	\$1,000,000
Professional Liability	\$1,000,000
Business automobile liability	\$1,000,000
Workers compensation	Statutory requirement

- B. Commercial general liability insurance will meet or exceed the requirements of the most recent ISO-CGL Form. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name CITY, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess thereto. Such endorsement must be reflected on ISO Form No. CG 20 10 11 85 or 88, or equivalent. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to CITY.
 - C. Professional liability coverage will be on an "occurrence basis" if such coverage is available, or on a "claims made" basis if not available. When coverage is provided on a "claims made basis," COMPANY will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover COMPANY for all claims made by CITY arising out of any errors or omissions of COMPANY, or its officers, employees or agents during the time this Agreement was in effect.
 - D. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).
 - E. COMPANY will furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII."
 - F. Should COMPANY, for any reason, fail to obtain and maintain the insurance required by this Agreement, CITY may obtain such coverage at COMPANY's expense and deduct the cost of such insurance from payments due to COMPANY under this Agreement or terminate pursuant to Section 16.
24. **USE OF SUBCONTRACTORS.** COMPANY must obtain CITY's prior written approval to use any COMPANYs while performing any portion of this Agreement. Such approval must approve of the proposed COMPANY and the terms of compensation.
25. **INCIDENTAL TASKS.** COMPANY will meet with CITY monthly to provide the status on the project, which will include a schedule update and a short narrative description of progress during the past month for each major task, a description of the work remaining and a description of the work to be done before the next schedule update.
26. **NOTICES.** All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

If to COMPANY:

Urban Habitat Environmental Landscapes
P.O. Box 1177
La Quinta, CA 92247

If to CITY:

City of Callexico
608 Heber Avenue
Callexico, CA 92231

Attention: Brett Brennan

Attention: City Manager

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

27. **CONFLICT OF INTEREST.** COMPANY will comply with all conflict of interest laws and regulations including, without limitation, CITY's conflict of interest regulations.
28. **SOLICITATION.** COMPANY maintains and warrants that it has not employed nor retained any company or person, other than COMPANY's bona fide employee, to solicit or secure this Agreement. Further, COMPANY warrants that it has not paid nor has it agreed to pay any company or person, other than COMPANY's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should COMPANY breach or violate this warranty, CITY may rescind this Agreement without liability.
29. **THIRD PARTY BENEFICIARIES.** This Agreement and every provision herein is generally for the exclusive benefit of COMPANY and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of COMPANY's or CITY's obligations under this Agreement.
30. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Ventura County.
31. **COMPLIANCE WITH LAW.** COMPANY agrees to comply with all federal, state, and local laws applicable to this Agreement.
32. **ENTIRE AGREEMENT.** This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written. There are three (3) Attachments to this Agreement. This Agreement will bind and inure to the benefit of the parties to this Agreement and any subsequent successors and assigns.
33. **RULES OF CONSTRUCTION.** Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.
34. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.
35. **AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment. CITY's executive manager, or designee, may execute any such amendment on behalf of CITY.
36. **ACCEPTANCE OF FACSIMILE SIGNATURES.** The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile

transmission. Such facsimile signature will be treated in all respects as having the same effect as an original signature.

- 37. **CAPTIONS.** The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.
- 38. **TIME IS OF ESSENCE.** Time is of the essence for each and every provision of this Agreement.
- 39. **FORCE MAJEURE.** Should performance of this Agreement be prevented due to fire, flood, explosion, acts of terrorism, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' reasonable control, then the Agreement will immediately terminate without obligation of either party to the other.
- 40. **STATEMENT OF EXPERIENCE.** By executing this Agreement, COMPANY represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. COMPANY represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private COMPANYS, and experience in dealing with public agencies all suggest that COMPANY is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public CITY.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF CALEXICO

COMPANY

Nick Fenley,
Interim City Manager

ATTEST:

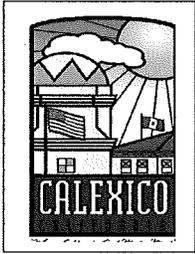
Gabriela Garcia,
Deputy City Clerk

Taxpayer ID No. _____

APPROVED AS TO FORM:

Carlos Campos,
Interim City Attorney

**AGENDA
ITEM
10**



AGENDA STAFF REPORT

DATE: April 5, 2016

TO: Mayor and City Council

APPROVED BY: Nick Fenley, Interim City Manager 

PREPARED BY: Nick Fenley, Interim City Manager
Carlos Campos, City Attorney

SUBJECT: Approval of Social Media Policy

=====

Recommendation:

Approval of the Social Media Policy for the City of Calexico.

Background:

The Social Media Policy ("Policy") establishes guidelines for authorized City employees and contractors who interact with the public of the City of Calexico ("City") through any and all City Social Media Sites as a means of conveying information to the public. The Policy applies to any and all active City social media platforms including, but not limited to, Facebook, Twitter, LinkedIn, Instagram, NextDoor and YouTube.

Discussion & Analysis:

Social media fosters a culture of greater civic engagement. The City encourages the use of social media to modernize the way residents communicate and obtain information, to reach a broader audience, and to further the mission and goals of the City.

The Policy applies to employees, contractors, and volunteers, who, in their official capacities and as part of their job responsibilities and requirements, are authorized to speak on behalf of the City. All authorized employees shall review, be familiar with, and comply with the Policy. Information posted on City Social Media Sites will supplement, and not replace required notices and standard methods of communication.

Fiscal Impact:

None.



Coordinated With:

City Attorney's Office.

Attachment:

1. Social Media Policy.

CITY OF CALEXICO SOCIAL MEDIA POLICY

Dated 4/1/2016

PURPOSE: The Social Media Policy (“Policy”) establishes guidelines for authorized City employees and contractors who interact with the public of the City of Calexico (“City”) through any and all City Social Media Sites as a means of conveying information to the public. The Policy applies to any and all active City social media platforms including, but not limited to, Facebook, Twitter, LinkedIn, Instagram, NextDoor and YouTube.

Social media fosters a culture of greater civic engagement. The City encourages the use of social media to modernize the way residents communicate and obtain information, to reach a broader audience, and to further the mission and goals of the City.

APPLICABILITY: The Policy applies to employees, contractors, and volunteers, who, in their official capacities and as part of their job responsibilities and requirements, are authorized to speak on behalf of the City. All authorized employees shall review, be familiar with, and comply with the Policy.

POLICY:

1.0 General Information

- 1.1 The City’s official website (www.calexico.ca.gov) as well as other City-affiliated websites shall be the City’s primary and predominant Internet presence.
- 1.2 Information posted on City Social Media Sites will supplement, and not replace, required notices and standard methods of communication.
- 1.3 Information posted to City Social Media Sites becomes public information and there should be no expectation of privacy in regards to the information posted on these sites.
- 1.4 The City shall have full permission or rights to any content posted by visitors to City Social Media Sites, including photographs and videos.
- 1.5 City Social Media Sites are subject to the California Public Records Act. Any content maintained on a City Social Media Site that is related to City business, including a list of subscribers, posted communication and communication submitted for posting, may be considered a public record, subject to public disclosure, and subject to the City’s document retention schedule.

1.6 Information in City records may be confidential, or subject to privileges or exemptions under the California Public Records Act, City ordinances, or state or federal laws. Confidential information or information exempt from disclosure under the California Public Records Act shall not be conveyed through social media platforms. Examples include, but are not limited to:

- Attorney-client privileged information;
- Records concerning pending litigation; and
- Personal identifying information on individuals and City employees (e.g. home addresses, phone numbers, medical and confidential employment information).

1.7 City Social Media Sites shall comply with all appropriate City policies and standards including, but not limited to Computer and Telecommunications Equipment Use Policy, Electronic Communication Usage and Retention Policy, and Harassment Policy.

2.0 Employee Use and Management

2.1 Employees authorized to utilize City Social Media Sites must comply with applicable federal, state, and local laws, regulations, and policies. This includes adherence to established laws and policies regarding copyright, records retention, the California Public Records Act, the First Amendment to the United States Constitution, and privacy laws.

2.2 The City Manager or his or her designee will manage and oversee City Social Media Sites to ensure adherence to the Policy, including appropriate use and messaging, and branding that is consistent with the goals and objectives of the City.

2.3 The City Manager or his or her designee will maintain a list of all City Social Media Sites, including account login and password information, to allow for the immediate alteration or removal of content that is inappropriate or inconsistent with this Policy.

2.4 Any City staff member to find content that is potentially inappropriate or inconsistent with this Policy on a City Social Media Site will notify his or her supervisor and the City Social Media Site's Administrator. The Administrator will consult the City Manager and/or the City Attorney for direction on further handling of the potentially inappropriate or inconsistent content to ensure compliance with free speech rights protected by the First Amendment to the United States Constitution.

3.0 Definitions

For the purpose of this Policy, the following terms are defined as provided below:

- *Social Media Sites*: Content created by individuals, using accessible, expandable, and upgradable publishing technologies through the Internet. Examples of social media sites include, but are not limited to, Facebook, Twitter,

YouTube, LinkedIn, Instagram, Flickr, Foursquare, NextDoor, RSS, Blogs, and Pinterest.

- *City Social Media Sites*: City Social Media Sites are webpages which the City establishes and maintains, and over which it has control over all postings, except for advertisements or hyperlinks by the social media site's owners, vendors, or partners.
- *Administrators*: Authorized users who manage content on City Social Media Sites as well as review content posted to the site by the public.
- *Posts or Postings*: A message, announcement, picture, video, or any other form of communication posted on City Social Media Sites.

4.0 *Procedures to Create or Delete City Social Media Sites*

Departments must obtain approval from the City Manager or his or her designee prior to creating or deleting a City Social Media Site by submitting a Social Media Request Form (attached hereto as Appendix "A"). Upon approval to create a new City Social Media Site, the department may create the site which shall bear the name and/or official logo of the City or its respective program.

City Social Media Sites shall use City contact information, not personal information, for account set-up, monitoring, and access. City Social Media Sites created or established prior to adoption of this Policy may be exempt from this provision.

Each Department shall have designated staff to maintain and monitor the City Social Media Site and ensure that the content is accurate and current. Departments should consider the need and value of the site. Since social media sites generally lose the interest of their audiences when not updated regularly, staff should calculate the time and effort it will take to maintain a site so that visitors continue to find value over time.

5.0 *City-Posted Information on City Social Media Sites*

Guidelines

- Employees are representatives of the City and must conduct all communications on City Social Media Sites in a professional manner.
- Employees shall not express personal views or concerns. Postings shall reflect the views of the City.
- The City's official website (www.calexico.ca.gov) is the primary source of information for City-related information and news. Wherever possible, content posted on City Social Media Sites will also be available on the City's website. Content posted on City Social Media Sites should contain links directing users

back to the City's website for in-depth information, forms, documents, or online services necessary to conduct business with the City.

- Information posted to City Social Media Sites must be factual, concise, grammatically correct, and without error.
- Information posted to City Social Media Sites must:
 - Directly pertain to City-sponsored programs, services and events.
 - Present the City in a positive light and a professional manner.
 - Contain information that is freely available to the public and not confidential as defined by any City policy or local, state or federal law;
 - Comply with all local, state, and federal laws.
 - Not contain any personal information.
 - Not include content that is contrary or detrimental to the City's mission, values, image, and interests.
 - Not contain religious messages or advocate or promote religious beliefs.
 - Not contain content in support of, or in opposition to, any political campaign, candidate, or ballot measure.
 - Not contain profane language or content.
 - Not contain sexual content or links to sexual content.
 - Not contain content that promotes, fosters or perpetrates discrimination on the basis of race, color, creed, sex, gender, age, religion, national origin or ancestry, physical or mental disability, veteran status, parentage, marital status, status with regard to public assistance, medical condition, sexual identity, sexual orientation, as well as any other category protected by federal, state, or local laws.
 - Not contain solicitations of commerce or advertisement of any business, product, or commercial activity.
- City Social Media Sites shall not contain photos and videos that display undesirable expressions or poses. A parent or guardian of identifiable minor(s) under 18 years of age must sign a release prior to posting of a photo or video of that minor, unless the photo or video was taken during a public event or program when no reasonable expectation of privacy exists.
- City Social Media Sites shall be managed consistent with the Ralph M. Brown Act. Members of the City Council, City Commissions, or City Boards shall not use City Social Media Sites or other social media sites to engage in serial meetings, or otherwise discuss, deliberate, or express opinions on any issue within their subject matter jurisdiction.

6.0 External Comments and Posts on City Social Media Sites

Guidelines

- Posted content (including comments, photos, and links) on City Social Media Sites must be related to the topic originally posted by the City.

- Posts or comments containing any of the following inappropriate forms of content are not permitted and may be removed from City Social Media Sites:
 - Content in support of, or in opposition to, any political campaign, candidate, or ballot measure.
 - Profane, obscene, or pornographic language or content or links to such language or content.
 - Solicitations of commerce, including but not limited to advertising of any business, product, or commercial activity.
 - Content that conducts or encourages illegal activity.
 - Information that is illegal to disseminate or that might compromise the safety or security of the public or public systems.
 - Content that violates a legal ownership interest, such as a copyright or trademark, of another party.
 - Defamatory statements.
 - Threats of violence or injury to any person, property, or organization.
 - Content that violates any federal, state or local law.
 - Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, creed, sex, gender, age, religion, national origin or ancestry, physical or mental disability, veteran status, parentage, marital status, status with regard to public assistance, medical condition, sexual identity, sexual orientation, as well as any other category protected by federal, state, or local laws.

7.0 City Social Media Site Requirements

All City Social Media Sites shall include the following information:

- City Social Media Sites shall contain contact information and a hyperlink to the City’s official website (www.calexico.ca.gov) or other City-affiliated websites.
- A link to the City’s Social Media Policy, which notifies users and visitors of the City’s public comment and messaging standards. The Policy that is available to the public states the following:

The intended purpose of a City Social Media Site is to serve as a mechanism for communication between the City of Calexico and members of the public. A social media site is not the primary method of communication with the City, and any notices or requests for City services must be made via official communication methods identified on the City’s website (www.calexico.ca.gov), or by traditional methods of notification recognized by the City. No comments or posts on a City Social Media Site will be construed as providing notice to the City of any claim, deficiency, dangerous condition, request, or other matter.

Comments posted by members of the public on a City Social Media Site are the opinions of the commenter, and publication of comments does not imply endorsement of or agreement by the City, nor do such comments necessarily reflect the opinions or policies of the City.

Comments posted to a City Social Media Site will be monitored. The City reserves the right to remove any comment that is deemed in violation of the City's Social Media Policy, or any applicable law, including but not limited to any comment that contains profane, obscene, or pornographic language or content; threatens or defames any person or organization; supports or opposes political candidates, campaigns, or ballot measures; promotes illegal activity; violates federal, state, or local laws; promotes discrimination on an unlawful basis; or discusses topics not related to the particular issue or subject discussed on a City Social Media Site. The City reserves the right to remove articles, messages, posts, comments, images, photos, videos or other content containing any of the following as soon as possible:

- Comments not topically related to the particular article or post being commented on.*
- Comments in support of or opposition to political campaigns, political candidates, or ballot measures.*
- Profane language or content.*
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, creed, sex, gender, age, religion, national origin or ancestry, physical or mental disability, veteran status, parentage, marital status, status with regard to public assistance, medical condition, sexual identity, sexual orientation, as well as any other category protected by federal, state, or local laws.*
- Sexual content or links to sexual content.*
- Solicitations of commerce or advertisement of business, product, or commercial activity.*
- Conduct or encouragement of illegal activity.*
- Information that may tend to compromise the safety or security of the public or public systems.*
- Content that violates a legal ownership interest of any other party.*

The City disclaims any and all responsibility and liability for any materials that the City deems inappropriate for posting which cannot be removed in an expeditious and otherwise timely manner.

Any comments or content posted or submitted on a City Social Media Site or personal identifying information for the site's users and visitors may be public records subject to disclosure pursuant to Government Code section 6250 et seq. Public disclosure requests must be directed to the City Clerk's office.

8.0 City Social Media Site Best Practices

City staff must adhere to this Policy as well as the aforementioned Policy that is available to the public on all City Social Media Sites. In addition, this Policy also provides best practices to help employees address the challenges while maximizing the benefits of social media.

- Be transparent and truthful.
- Be timely. Review the sites at least once a day to ensure that comments and content are current and accurate. Respond promptly to questions and requests for information.
- Be cautious. Ensure efforts are transparent but that they do not violate the City's privacy, confidentiality, and legal guidelines.
- Perception trumps reality. In online social networks, the lines between public and private, as well as personal and professional are blurred. By identifying yourself as a City employee, you are automatically creating perceptions about the City and your expertise. Use this perception wisely and for the benefit of the City.
- Be judicious. Use good judgment in responding to a post. Engaging any person posting in an argumentative or offensive manner should be avoided. If such a comment warrants a response, take the conversation offline.
- Utilize visuals to capture audience attention. This may include graphics, images, photos, and videos.
- Avoid technical terms and government jargon. Use more casual, conversational language that is easy to understand with correct spelling, grammar, and punctuation.
- Redirect users to the City's official website or City-affiliated websites for information or details, where possible.

Authority

This Social Media Policy is adopted by authority of the City Manager.

Nick Fenley, Interim City Manager

Date

Social Media Site Request

Date:

SECTION 1:

Submitted By (Name/Dept.) _____

Activate/De-Activate (Check One. If you are deactivating, please complete Section One only):

- Facebook Twitter YouTube
 Instagram LinkedIn Instagram
 Other _____

Account Login _____

Account Password _____

SECTION 2:

Goals and Objectives

Intended Audience

Designated Administrator(s)

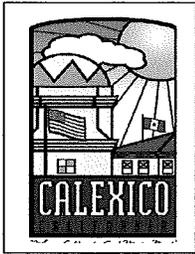
Primary Administrator <i>(name and title)</i>	
Secondary Administrator <i>(name and title)</i>	

City Manager Approved

Denied - Reason: _____

**AGENDA
ITEM**

11



AGENDA STAFF REPORT

DATE: April 5, 2016

TO: Mayor and City Council

APPROVED BY: Nick Fenley, Interim City Manager 

PREPARED BY: Nick Fenley, Interim City Manager

SUBJECT: Authorize Interim City Manager to Seek Proposals for a Water Rate Study (Mayor Kim)

=====

Recommendation:

Authorize Interim City Manager to seek proposals for a water rate study.

Background:

Mayor Kim and Council Member Real have requested a change in the water rate structure for Calexico.

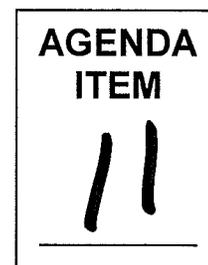
Discussion & Analysis:

In order to responsibly consider a change to the current water rate structure, a water rate study needs to be conducted. Primary objective of the study is to analyze different rate structures and charges with particular attention paid to:

- * Financial stability
- * Equity
- * Water conservation
- * Storm water management
- * Other best management practices

Other important considerations include:

- * Ratepayer sensitivity
- * Economic competitiveness
- * Ease of Implementation
- * Future System needs
- * Affordable housing stock
- * Regulatory/water quality concerns



Staff requests Council authorization to proceed with the RFP process in order to hire a consultant to conduct such study.

Fiscal Impact:

\$75,000 (Estimated Cost)

Coordinated With:

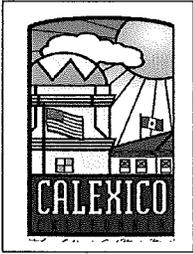
None.

Attachment:

None.

**AGENDA
ITEM**

12



AGENDA STAFF REPORT

DATE: April 5, 2016

TO: Mayor and City Council

APPROVED BY: Nick Fenley, Interim City Manager 

PREPARED BY: Nick Fenley, Interim City Manager
Carlos Campos, Interim City Attorney

SUBJECT: Discussion on Direct Election of the Mayor for the City of Calexico.
(Mayor Kim).

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Background:

Mayor Kim requested this item be placed on the agenda for discussion.

Discussion and Analysis:

Please see attached Memorandum from Carlos Campos, Interim City Attorney.

Fiscal Impact:

Unknown at this time.

Coordinated With:

City Attorney.
City Manager.

Attachment:

1. Memorandum from Interim City Attorney.





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Memorandum

To: MAYOR AND CITY COUNCIL
From: INTERIM CITY ATTORNEY
Date: March 31, 2016
Re: **Charter Cities vs. General Law Cities and the Process to Become a Charter City**

QUESTIONS PRESENTED

1. What are the differences between general law cities and charter cities?
2. What is the process to become a charter city?

ANALYSIS

1. General Law Cities vs. Charter Cities

In California, there are two types of cities: general law cities and charter cities. General law cities get their corporate powers from the general laws passed by the State legislature. (*Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 20.) Charter cities, on the other hand, get their corporate powers from the California Constitution's "home rule" provision¹, which allows them to preside over all "**municipal affairs**," limited only by their own charters and State law on matters of "**statewide concern**." (Cal. Const. art XI, §§ 3 & 5; *Johnson v. Bradley* (1992) 4 Cal.4th 389, 394.)

(a) What are "municipal affairs"?

Unfortunately, the California Constitution does not define "municipal affairs." (*Committee of Seven Thousand v. Superior Court* (1988) 45 C3d 491, 505.) What constitutes a "municipal affair" has been interpreted by the courts on a case-by-case basis.

The following is a list of matters determined by the courts to be "municipal affairs":

- (i) Municipal elections and recalls

¹ "It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws." (Cal. Const. art. XI, § 5(a).)



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- (ii) Procedure for enacting local ordinances
- (iii) Land use and zoning decisions (subject to some exceptions)
- (iv) Contracting methods and procedures
- (v) City police force regulation
- (vi) City employee appointment, compensation, and termination
- (vii) The imposition of taxes for municipal purposes
- (viii) Procedures for issuing building permits
- (ix) The rendering of financial assistance to public schools
- (x) Municipal park acquisition and establishment
- (xi) Fire station designation
- (xii) Municipal street improvements
- (xiii) Sewer and drain establishment and maintenance

(b) **What are matters of “statewide concern”?**

Generally, a matter is of “statewide concern,” as opposed to a “municipal affair,” when its impact is “primarily regional,” even if its impacts are not truly statewide. (*Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 505 [although construction of local roads has been considered local concern, construction of major highways is not].)

The following is a list of matters determined by the courts to be matters of “statewide concern”:

- (i) Educational school systems
- (ii) Traffic and vehicle regulations
- (iii) Franchises for telephone or telegraph lines
- (iv) Licensing of trade or profession members
- (v) Tort claims against a governmental entity
- (vi) Taxation of savings and loan associations



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- (vii) The Ralph M. Brown Act open meetings law
- (viii) The Meyers-Milias-Brown Act regarding employee organization
- (ix) The California Environmental Quality Act
- (x) The exercise of the eminent domain power

(c) Specific Differences between General Law and Charter Cities

The following chart shows how certain municipal functions and activities are performed in general law versus in charter cities. The information here was gathered in part from the League of California Cities’ “Charter City Project.”

Characteristic	General Law Cities	Charter Cities
Ability to Govern Municipal Affairs	Bound by the state’s general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over “municipal affairs.” Cal. Const. art. XI , § 5(b).
Form of Government	State law describes the city’s form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov’t Code § 34871. The Government Code also authorizes the “city manager” form of government. Cal. Gov’t Code § 34851.	Charter can provide for any form of government including the “strong mayor,” and “city manager” forms. See Cal. Const. art. XI, § 5(b); Cal. Gov’t Code § 34450 <i>et seq.</i>
Elections Generally	Municipal elections conducted in accordance with the California	Not bound by the California Elections Code. May establish own



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Characteristic	General Law Cities	Charter Cities
	Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i>	election dates, rules, and procedures. <i>See</i> Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i>
Methods of Elections	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council “by” or “from” districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov’t Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov’t Code § 34902.	May establish procedures for selecting officers. May hold at-large or district elections. <i>See</i> Cal. Const. art. XI, § 5(b).
City Council Member Qualifications	Minimum qualifications are: <ol style="list-style-type: none"> 1. United States citizen 2. At least 18 years old 3. Registered voter at the time nomination papers are filed 4. Resident of the city at the at least 15 days prior to the election. 5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected. 	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att’y Gen. 6, 8 (1999).
	Cal. Elec. Code § 321; Cal. Gov’t Code §§ 34882, 36502; 87 Cal.	



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Characteristic	General Law Cities	Charter Cities
	Op. Att’y Gen. 30 (2004).	
Public Funds for Candidate in Municipal Elections	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov’t Code § 85300.	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).
Term Limits	May provide for term limits. Cal. Gov’t Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov’t Code Section 36502 (b).
Vacancies and Termination of Office	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov’t Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
Council Member Compensation and Expense Reimbursement	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. <i>See</i> Cal. Gov’t Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. <i>See</i> Cal. Gov’t Code §§	May establish council members’ salaries. <i>See</i> Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. <i>See</i> Cal. Gov’t Code §§ 53234 - 53235.



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Characteristic	General Law Cities	Charter Cities
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53234 - 53235.

Legislative Authority

Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934.

Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.

May establish procedures for enacting local ordinances. *Brougher v. Bd. of Public Works*, 205 Cal. 426 (1928).

Resolutions

May establish rules regarding the procedures for adopting, amending or repealing resolutions.

May establish procedures for adopting, amending or repealing resolutions. *Brougher v. Bd. of Public Works*, 205 Cal. 426 (1928).

Quorum and Voting Requirements

A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810.

All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation

May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.



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Characteristic	General Law Cities	Charter Cities
	requires supermajority votes for certain actions.	
Rules Governing Procedure and Decorum	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
Personnel Matters	<p>May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements.</p> <p>May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 <i>et seq.</i></p> <p>Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of</p>	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act apply (Gov't Code § 3500) but note, "[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that 'salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.'" <i>Voters</i></p>



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Characteristic	General Law Cities	Charter Cities
	their place of employment. Cal. Const. art. XI, § 10(b).	<i>for Responsible Retirement v. Board of Supervisors</i> (1994) 8 Cal.4th 765, 781. Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10 (b).
Contracting Services	Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. <i>See</i> Cal. Gov't Code § 37103; <i>Carruth v. City of Madera</i> , 233 Cal. App. 2d 688 (1965).	Full authority to contract consistent with charter. May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.
Public Contracts	Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$175,000. <i>See</i> Cal. Pub. Cont. Code §§ 22000, 22032. Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land	Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; <i>see R & A Vending Services, Inc. v. City of Los Angeles</i> , 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i> , 71 Cal. App. 4th 38 (1998).



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Characteristic	General Law Cities	Charter Cities
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surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.

Payment of Prevailing Wages

In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. *See* Cal. Labor Code § 1771.5(a)-(c).

A charter city may exempt itself from the state's prevailing wage requirements on the city's locally funded public works projects because the wage levels of contract workers constructing locally funded public works are a "municipal affair." *State Bldg. & Constr. Trades Council v. City of Vista* (2012) 54 C4th 547. However, *City of Vista* was legislatively overturned by Labor Code §1782, which prohibits charter cities from receiving or using state funding or financial assistance for construction projects if the charter city has a charter provision or ordinance authorizing noncompliance with state prevailing wage laws, or if it has awarded a public works contract within the prior 2 years that did not require compliance with prevailing wage requirements. Limited exceptions apply to funding or contracts awarded before January 1, 2015, and for certain contracts of \$25,000 or less. Legal challenges to Labor Code §1782 are pending.



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Characteristic	General Law Cities	Charter Cities
Finance and Taxing Power	<p>May impose the same kinds of taxes and assessment as charter cities. <i>See</i> Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art. XIIC.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none">• Municipal Improvement Act of 1913. <i>See</i> Cal. Sts. & High. Code §§ 10000 <i>et seq.</i>.• Improvement Bond Act of 1915. Cal. Sts. & High. Code §§ 8500 <i>et seq.</i>.• Landscaping and Lighting Act of 1972. Cal. Sts. & High. Code §§ 22500 <i>et seq.</i>.• Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 <i>et seq.</i>. <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. <i>See</i> Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. <i>See</i> Cal. Const. art.</p>	<p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIC, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. <i>See J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. <i>See</i> Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California Government Code section 53725. <i>See Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137 (1993).</p>



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Characteristic	General Law Cities	Charter Cities
	XIIIA, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (c).	
Streets & Sidewalks	State has preempted entire field of traffic control. Cal. Veh. Code § 21.	State has preempted entire field of traffic control. Cal. Veh. Code § 21.
Penalties & Cost Recovery	May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.	May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i> , 219 Cal. App. 2d 838, 844 (1963).
Public Utilities/Franchises	May establish, purchase, and operate public works to furnish its inhabitants with electric power. <i>See</i> Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002. May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a	May establish, purchase, and operate public works to furnish its inhabitants with electric power. <i>See</i> Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i> , 80 Cal. App. 4th 699 (2000). May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city. Franchise Act of 1937 is not applicable if charter provides. Cal.



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Characteristic	General Law Cities	Charter Cities
	bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.	Pub. Util. Code § 6205.
Zoning	Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.	Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.

2. Procedures for Drafting and Adopting a City Charter

To become a charter city, a city must adopt a charter. The California Constitution authorizes the voters to adopt a city charter. (Cal. Const. art. XI, §3(a).) There are two ways to draft a charter: (1) the city council drafts the charter; or (2) the city's voters elect a charter commission to draft the charter. (Gov. Code, §§ 34451, 34458.) In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters. (Gov. Code, §§34457, 34462.)

(a) The City Council Drafts the Charter

The City Council, on its own motion, may draft a charter and submit it to the voters for adoption. (Gov. Code, § 34458.)

While there are no particular provisions required to be in a city charter, cities often reserve the greatest amount of power possible when they adopt charters. Under the California Constitution, it is sufficient to provide in any city charter that the **city governed under it may make and enforce all ordinances and regulations regarding municipal affairs, subject only to restrictions and limitations provided in the charter.** (Cal. Const. art. XI, § 5, subd. (b).)

The most common areas explicitly regulated in city charters are:

- (ii) The date and conduct of city elections
- (iii) Regulations on the appointment of municipal officials



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- (iv) The terms and payment of municipal officials
 - (v) The process for removal of municipal officials
 - (vi) The number, pay, qualifications, and appointment of deputies, clerks, and other employees that each municipal officer will have
 - (vii) Sub-government in all or part of the city
 - (viii) The tenure of office for deputies, clerks, and other employees
 - (ix) The process for removal of such deputies, clerks, and other employees
 - (x) The constitution, regulation, and government of the local police force
- (Cal. Const. art. XI, § 5, subd. (b).)

Once the City determines which matters the charter will address, the process of drafting the charter, including all provisions respecting these matters, begins. Because the charter usually establishes (or, alternatively, adopts existing general law by reference) a set of rules governing each of the matters referenced above, the process of drafting a charter can be long and tedious. The Council must also agree to the rules governing municipal affairs as incorporated into the charter; a charter, once adopted, is difficult to amend.

After the proposed charter has been drafted, it may be sent to the voters for ratification at the next established statewide general election, provided there are at least 88 days remaining before the election. (Gov't Code § 34458.)

Before a proposal to adopt a charter is submitted to the voters, the City Council must hold at least two public hearings on the matter. Notice of the public hearings shall be given by publication in a newspaper designated by the City Council and circulated throughout the city, and by posting notice in three public places within the city at least 21 calendar days prior to the date of each public hearing. The second public hearing shall be held at least 30 days after the first public hearing. At least one of the public hearings shall be held outside of normal business hours to facilitate public participation. The governing body shall not conduct a vote on whether to approve the submission to the voters of the proposal to adopt a charter until 21 days after the second public hearing. (Gov. Code, § 34458.)

(b) Voters Elect Charter Commission to Draft the Charter

Alternatively, a city may opt to elect a charter commission. An election to create a charter commission and choose charter commissioners may be called (1) by a majority vote of the city council, or (2) on presentation of a petition signed by not less than 15% of the city's registered voters. The authority in charge of the city's registration records must verify the



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petition and the city must pay the cost of this verification. If the petition is verified, the city council must call an election pursuant to Elections Code Sections 1000 and 10403. (Gov. Code, § 34452.) The city's voters may choose charter commission members at any general or special election. (Gov. Code, § 34451.)

To be eligible for a charter commission, each candidate must be a registered voter of the city. (Gov. Code, § 34451.) Candidates shall be nominated either in the same manner provided for the nomination of city councilmembers or by petition substantially in the same manner provided by general laws for the nomination by petition of candidates for public offices to be voted for at general elections. (Gov. Code, § 34454.)

The candidate must prepare nomination papers which consist of three documents: 1) nomination paper; 2) Affidavit of the Circulator; and 3) Affidavit of the Nominee. (See Elec. Code § 10221.) The signature gatherers must sign the "Affidavit of the Circulator." The candidate must sign the "Affidavit of the Nominee."

At the election the voters will first vote on the question: "Shall a charter commission be elected to propose a new charter?" Second, they will vote for candidates for the office of charter commissioner. If the first question receives a majority vote, the 15 charter commissioner candidates with the highest number of votes will then organize as a charter commission. (Gov. Code, § 34453.)

Once the charter commission is elected, it is their duty to draft a charter for the city. The charter commissioners shall propose a charter to the city council. Once a final draft of the charter is approved by city council, a majority of the charter commissioners must sign and file the charter with the city clerk. (Gov. Code, §§ 34455, 34458.)

After the charter has been filed with the city clerk, the proposed charter must be submitted to the voters at the next established statewide general election, provided there are at least 95 days before the election. (Gov. Code, § 34457.) The charter must be sent to the voters within two years of the vote that formed the charter commission. (Gov. Code, § 34462.)

(c) The Election

In either case (i.e., the charter is drafted by the city council or by a charter commission), the majority of voters must vote in favor of the proposed charter for the charter to be adopted. (Gov. Code, § 34459.)

Once an election date is selected, the ballot is prepared. Elections Code section 13103 requires the ballot to contain the title and summary of the charter as submitted for voter ratification. The Elections Official will designate the charter proposal with a measure letter. (Gov. Code, § 13116.) The full charter may or may not be sent to voters, but if it is not, it should be made available upon request at no cost to the voter. (Gov. Code, § 34456.)



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The City Council may direct the City Attorney to prepare an impartial analysis of the ballot measure showing the impact of the adoption of the charter. (Elec. Code, § 9280.) However, the City Attorney may not prepare the impartial analysis if the charter will affect the organization or salaries of the office of the City Attorney. In this case, the Council may direct the City Elections Official to prepare the impartial analysis. The analysis may not exceed 500 words and must appear before the pro and con arguments (explained below) in the ballot materials. If the entire text of the charter is not printed on the ballot or in the voter information portion of the sample ballot, then the following text shall be printed immediately below the impartial analysis: “The above statement is an impartial analysis of Measure [____]. If you desire a copy of the ordinance or measure, then please call the elections official’s office at [_____] and a copy will be mailed at no cost to you.” (*Ibid.*)

Pro and con arguments may be submitted by any of the following:

- City Council member
- A member of the City Council authorized by the City Council to act on behalf of the City Council
- Any individual voter who is eligible to vote on the charter
- Any bona fide association of citizens
- Any combination of voters and associations.

The Elections Official will determine a reasonable final date, after which no arguments for or against the charter may be submitted. Arguments already submitted may be withdrawn or changed up until this date. The final date must be reasonably necessary to facilitate printing the arguments and sample ballots and to permit a ten-day public examination period. (Elec. Code, §§ 9286, 9295.)

An argument may not exceed 300 words. No ballot argument may be accepted unless it is accompanied by the printed name(s) and signature(s) of the person or persons submitting it, or if the argument is submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers. (Elec. Code, § 9283.) However, no more than five signatures may be printed with any argument; if more than five signatures are received, only the top five will be printed. (*Ibid.*)



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Elections Code section 9287 provides that “[I]f more than one argument for or against the measure has been filed within the prescribed time frame, then the City Clerk or County Registrar will select one in favor and one against.” In selecting the argument, the City Clerk/County Registrar will give priority in the following order:

- (i) The City Council member or members authorized by the Council.
- (ii) The individual voter, or bona fide association of citizens or combination of voters and associations who are the sponsors or proponents of the measure.
- (iii) Bona fide associations of citizens.
- (iv) Individual voters who are eligible to vote on the measure.

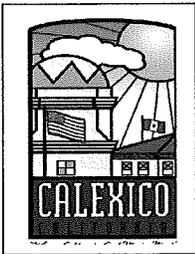
When arguments both for and against a measure have been filed, the Elections Official will immediately send copies of the opposing arguments to the authors of the direct arguments so that they may write rebuttals. The author of the direct argument has no more than 10 days after the final date for filing direct arguments. The rebuttal argument shall immediately follow the direct argument it seeks to rebut. The rebuttal argument must be no more than 250 words. (Elec. Code, § 9285.)

The final step is voter ratification of the charter. Ratification requires a majority of votes of the participating voters.

After the charter is ratified by a majority vote, three copies of the complete text of the charter proposal as ratified by the voters must be certified and authenticated by the Mayor and City Clerk, setting forth the submission of the charter to the voters of the City, and its ratification by them. One copy must be filed with the Secretary of State immediately after certification of the result; the charter will not go into effect until it has been filed with and accepted by the Secretary of State. (Gov. Code, § 34459.) The charter proposal will then be published in the statutes in a charter chapter series, along with the date of the ratification election and the date of filing with the Secretary of State. A second copy must be filed with the County Recorder’s Office. A third copy must be filed in the archives of the City. All three copies must be accompanied by certified copies of all arguments for and against the charter proposal which were mailed to the voters, certified copies of all publications and notices required of the City in the process of seeking a charter and a certified abstract of the vote which ratified the charter. (Gov. Code, § 34460.)

**AGENDA
ITEM**

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AGENDA STAFF REPORT

DATE: April 5, 2016
TO: Mayor and City Council
APPROVED BY: Nick Fenley, Interim City Manager 
PREPARED BY: Nick Fenley, Interim City Manager
Carlos Campos, City Attorney
SUBJECT: Discussion on Possible Re-Zoning of the Downtown Area from a Commercial Specialty to a Mix-Use Area.

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Recommendation:

Provide direction to Staff.

Background:

Mayor Kim has requested discussion and consideration on possible re-zoning of the downtown area from a Commercial Specialty to a Mix-Use area.

Discussion & Analysis:

The Calexico downtown area is currently zoned as CS - Commercial Specialty Zone. This zone is intended to provide for those commercial uses centralized in the old downtown area along the international border.

Mixed-use development is, in a broad sense, any development, or even a single building, that blends a combination of residential, commercial, cultural, institutional, or industrial uses, where those functions are physically and functionally integrated, and that provides pedestrian connections. A re-zone would allow for housing developments in the downtown as part of existing buildings with a second floor or the addition of a second floor such use.

Fiscal Impact:

None.

Coordinated With:

None.

Attachment:

None.

