

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lana Beach, CA 90802-4664

1 **AGREEMENT**

2 **35821**

3 THIS AGREEMENT is made and entered, in duplicate, as of April 15, 2020,
4 for reference purposes only, pursuant to a minute order adopted by the City Council of the
5 City of Long Beach at its meeting on April 14, 2020, by and between DOWNTOWN LONG
6 BEACH ALLIANCE, a California domestic nonprofit corporation ("DLBA"), with a place of
7 business at 100 West Broadway, Suite 120, Long Beach, California 90802, and the CITY
8 OF LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be
10 performed in connection with downtown transit corridor maintenance between on First
11 Street between Pacific Avenue and Long Beach Boulevard ("Project" or "Scope of Work");
12 and

13 WHEREAS, City has selected DLBA in accordance with City's administrative
14 procedures, and City has determined that DLBA and its employees are qualified, licensed,
15 if so required, and experienced in performing these specialized services; and

16 WHEREAS, City desires to have DLBA perform these specialized services,
17 and DLBA is willing and able to do so on the terms and conditions in this Agreement;

18 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
19 conditions in this Agreement, the parties agree as follows:

20 1. **SCOPE OF WORK OR SERVICES.**

21 A. DLBA shall furnish specialized services more particularly
22 described in Exhibit "A", attached to this Agreement and incorporated by this
23 reference, in accordance with the standards of the profession, and City shall pay for
24 these services in the manner described below, not to exceed Two Hundred Twenty-
25 Four Thousand Four Hundred Dollars (\$224,400), at the rates or charges shown in
26 Exhibit "A".

27 B. City shall pay DLBA in due course of payments following receipt
28 from DLBA and approval by City of invoices showing the services or task performed,

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1 the time expended (if billing is hourly), and the name of the Project. DLBA shall
2 certify on the invoices that DLBA has performed the services in full conformance
3 with this Agreement and is entitled to receive payment. Each invoice shall be
4 accompanied by a progress report indicating the progress to date of services
5 performed and covered by the invoice, including a brief statement of any problems
6 and potential causes of delay in performance, and listing those services that are
7 projected for performance by DLBA during the next invoice cycle. Where billing is
8 done and payment is made on an hourly basis, the parties acknowledge that this
9 arrangement is either customary practice for DLBA's profession, industry or
10 business, or is necessary to satisfy audit and legal requirements which may arise
11 due to the fact the City is a municipality.

12 C. DLBA represents that DLBA has obtained all necessary
13 information on conditions and circumstances that may affect its performance and
14 has conducted site visits, if necessary.

15 D. By executing this Agreement, DLBA warrants that DLBA (a)
16 has thoroughly investigated and considered the scope of services to be performed,
17 (b) has carefully considered how the services should be performed, and (c) fully
18 understands the facilities, difficulties and restrictions attending performance of the
19 services under this Agreement. It the services involve work upon any site, DLBA
20 warrants that DLBA has or will investigate the site and is or will be fully acquainted
21 with the conditions there existing, prior to commencement of services set forth in
22 this Agreement. Should DLBA discover any latent or unknown conditions that will
23 materially affect the performance of the services set forth in this Agreement, DLBA
24 must immediately inform the City of that fact and may not proceed except at DLBA's
25 risk until written instructions are received from the City.

26 E. DLBA must adopt reasonable methods during the life of the
27 Agreement to furnish continuous protection to the work, and the equipment,
28 materials, papers, documents, plans, studies and other components to prevent

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1 losses or damages, and will be responsible for all damages, to persons or property,
2 until acceptance of the work by the City, except those losses or damages as may
3 be caused by the City's own negligence.

4 F. CAUTION: DLBA shall not begin work until this Agreement has
5 been signed by both parties and until DLBA's evidence of insurance has been
6 delivered to and approved by City.

7 2. TERM. The term of this Agreement shall commence at midnight on
8 January 1, 2020, and shall terminate at 11:59 p.m. on December 31, 2020, unless sooner
9 terminated as provided in this Agreement.

10 3. COORDINATION AND ORGANIZATION.

11 A. DLBA shall coordinate its performance with City's
12 representative, Mark Whitaker. DLBA shall advise and inform City's representative
13 of the work in progress on the Project in sufficient detail so as to assist City's
14 representative in making presentations and in holding meetings on the Project.

15 B. The parties acknowledge that a substantial inducement to City
16 for entering this Agreement was and is the reputation and skill of DLBA's key
17 employee, Broc Coward. City shall have the right to approve any person proposed
18 by DLBA to replace that key employee.

19 4. INDEPENDENT CONTRACTOR. In performing its services, DLBA is
20 and shall act as an independent contractor and not an employee, representative or agent
21 of City. DLBA shall have control of DLBA's work and the manner in which it is performed.
22 DLBA shall be free to contract for similar services to be performed for others during this
23 Agreement; provided, however, that DLBA acts in accordance with Section 9 and Section
24 11 of this Agreement. DLBA acknowledges and agrees that (a) City will not withhold taxes
25 of any kind from DLBA's compensation; (b) City will not secure workers' compensation or
26 pay unemployment insurance to, for or on DLBA's behalf; and (c) City will not provide and
27 DLBA is not entitled to any of the usual and customary rights, benefits or privileges of City
28 employees. DLBA expressly warrants that neither DLBA nor any of DLBA's employees or

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1 agents shall represent themselves to be employees or agents of City.

2 5. INSURANCE.

3 A. As a condition precedent to the effectiveness of this
4 Agreement, DLBA shall procure and maintain, at DLBA's expense for the duration
5 of this Agreement, from insurance companies that are admitted to write insurance
6 in California and have ratings of or equivalent to A:V by A.M. Best Company or from
7 authorized non-admitted insurance companies subject to Section 1763 of the
8 California Insurance Code and that have ratings of or equivalent to A:VIII by A.M.
9 Best Company, the following insurance:

10 (a) Commercial general liability insurance (equivalent in scope to
11 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
12 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
13 coverage shall include but not be limited to broad form contractual liability,
14 cross liability, independent contractors liability, and products and completed
15 operations liability. City, its boards and commissions, and their officials,
16 employees and agents shall be named as additional insureds by
17 endorsement (on City's endorsement form or on an endorsement equivalent
18 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and this insurance
19 shall contain no special limitations on the scope of protection given to City,
20 its boards and commissions, and their officials, employees and agents. This
21 policy shall be endorsed to state that the insurer waives its right of
22 subrogation against City, its boards and commissions, and their officials,
23 employees and agents.

24 (b) Workers' Compensation insurance as required by the California
25 Labor Code and employer's liability insurance in an amount not less than
26 \$1,000,000. This policy shall be endorsed to state that the insurer waives
27 its right of subrogation against City, its boards and commissions, and their
28 officials, employees and agents.

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(c) Professional liability or errors and omissions insurance in an amount not less than \$1,000,000 per claim.

(d) Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than \$500,000 combined single limit per accident.

B. Any self-insurance program, self-insured retention, or deductible must be separately approved in writing by City's Risk Manager or designee and shall protect City, its officials, employees and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention or deductible provisions.

C. Each insurance policy shall be endorsed to state that coverage shall not be reduced, non-renewed or canceled except after thirty (30) days prior written notice to City, shall be primary and not contributing to any other insurance or self-insurance maintained by City, and shall be endorsed to state that coverage maintained by City shall be excess to and shall not contribute to insurance or self-insurance maintained by DLBA. DLBA shall notify City in writing within five (5) days after any insurance has been voided by the insurer or cancelled by the insured.

D. If this coverage is written on a "claims made" basis, it must provide for an extended reporting period of not less than one hundred eighty (180) days, commencing on the date this Agreement expires or is terminated, unless DLBA guarantees that DLBA will provide to City evidence of uninterrupted, continuing coverage for a period of not less than three (3) years, commencing on the date this Agreement expires or is terminated.

E. DLBA shall require that all sub-contractors or contractors that DLBA uses in the performance of these services maintain insurance in compliance with this Section unless otherwise agreed in writing by City's Risk Manager or designee.

F. Prior to the start of performance, DLBA shall deliver to City

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1 certificates of insurance and the endorsements for approval as to sufficiency and
2 form. In addition, DLBA shall, within thirty (30) days prior to expiration of the
3 insurance, furnish to City certificates of insurance and endorsements evidencing
4 renewal of the insurance. City reserves the right to require complete certified copies
5 of all policies of DLBA and DLBA's subcontractors and contractors, at any time.
6 DLBA shall make available to City's Risk Manager or designee all books, records
7 and other information relating to this insurance, during normal business hours.

8 G. Any modification or waiver of these insurance requirements
9 shall only be made with the approval of City's Risk Manager or designee. Not more
10 frequently than once a year, City's Risk Manager or designee may require that
11 DLBA, DLBA's subcontractors and contractors change the amount, scope or types
12 of coverages required in this Section if, in his or her sole opinion, the amount, scope
13 or types of coverages are not adequate.

14 H. The procuring or existence of insurance shall not be construed
15 or deemed as a limitation on liability relating to DLBA's performance or as full
16 performance of or compliance with the indemnification provisions of this Agreement.

17 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
18 contemplates the personal services of DLBA and DLBA's employees and subcontractors,
19 and the parties acknowledge that a substantial inducement to City for entering this
20 Agreement was and is the professional reputation and competence of DLBA and DLBA's
21 employees and subcontractors. DLBA shall not assign its rights or delegate its duties
22 under this Agreement, or any interest in this Agreement, or any portion of it, without the
23 prior approval of City, except that DLBA may with the prior approval of the City Manager of
24 City, assign any moneys due or to become due DLBA under this Agreement. Any
25 attempted assignment or delegation shall be void, and any assignee or delegate shall
26 acquire no right or interest by reason of an attempted assignment or delegation.
27 Furthermore, DLBA shall not subcontract any portion of its performance without the prior
28 approval of the City Manager or designee, or substitute an approved subcontractor or

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1 contractor without approval prior to the substitution. Nothing stated in this Section shall
2 prevent DLBA from employing as many employees as DLBA deems necessary for
3 performance of this Agreement.

4 7. CONFLICT OF INTEREST. DLBA, by executing this Agreement,
5 certifies that, at the time DLBA executes this Agreement and for its duration, DLBA does
6 not and will not perform services for any other client which would create a conflict, whether
7 monetary or otherwise, as between the interests of City and the interests of that other client.
8 And, DLBA shall obtain similar certifications from DLBA's employees, subcontractors and
9 contractors.

10 8. MATERIALS. DLBA shall furnish all labor and supervision, supplies,
11 materials, tools, machinery, equipment, appliances, transportation and services necessary
12 to or used in the performance of DLBA's obligations under this Agreement.

13 9. OWNERSHIP OF DATA. All materials, information and data
14 prepared, developed or assembled by DLBA or furnished to DLBA in connection with this
15 Agreement, including but not limited to documents, estimates, calculations, studies, maps,
16 graphs, charts, computer disks, computer source documentation, samples, models,
17 reports, summaries, drawings, designs, notes, plans, information, material and
18 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
19 and City shall have the unrestricted right to use and disclose the Data in any manner and
20 for any purpose without payment of further compensation to DLBA. Copies of Data may
21 be retained by DLBA but DLBA warrants that Data shall not be made available to any
22 person or entity for use without the prior approval of City. This warranty shall survive
23 termination of this Agreement for five (5) years.

24 10. TERMINATION. Either party shall have the right to terminate this
25 Agreement for any reason or no reason at any time by giving thirty (30) calendar days prior
26 notice to the other party. In the event of termination under this Section, City shall pay DLBA
27 for services satisfactorily performed and costs incurred up to the effective date of
28 termination for which DLBA has not been previously paid. The procedures for payment in

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1 Section 1.B. with regard to invoices shall apply. On the effective date of termination, DLBA
2 shall deliver to City all Data developed or accumulated in the performance of this
3 Agreement, whether in draft or final form, or in process. And, DLBA acknowledges and
4 agrees that City's obligation to make final payment is conditioned on DLBA's delivery of
5 the Data to City.

6 11. CONFIDENTIALITY. DLBA shall keep all Data confidential and shall
7 not disclose the Data or use the Data directly or indirectly, other than in the course of
8 performing its services, during the term of this Agreement and for five (5) years following
9 expiration or termination of this Agreement. In addition, DLBA shall keep confidential all
10 information, whether written, oral or visual, obtained by any means whatsoever in the
11 course of performing its services for the same period of time excluding information or
12 documents requested under the California Public Records Act (Chapter 3.5 of Division 7
13 of Title 1 of the California Government Code). DLBA shall not disclose any or all of the
14 Data to any third party, or use it for DLBA's own benefit or the benefit of others except for
15 the purpose of this Agreement.

16 12. BREACH OF CONFIDENTIALITY. DLBA shall not be liable for a
17 breach of confidentiality with respect to Data that: (a) DLBA demonstrates DLBA knew prior
18 to the time City disclosed it; or (b) is or becomes publicly available without breach of this
19 Agreement by DLBA; or (c) a third party who has a right to disclose does so to DLBA
20 without restrictions on further disclosure; or (d) must be disclosed pursuant to subpoena or
21 court order or request for information under the California Public Records Act.

22 13. ADDITIONAL SERVICES. The City has the right at any time during
23 the performance of the services, without invalidating this Agreement, to order extra work
24 beyond that specified in the RFP or make changes by altering, adding to or deducting from
25 the work. No extra work may be undertaken unless a written order is first given by the City,
26 incorporating any adjustment in the Agreement Sum, or the time to perform this Agreement.
27 Any increase in compensation of ten percent (10%) or less of the Agreement Sum, or in
28 the time to perform of One Hundred Eighty (180) days or less, may be approved by the

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1 City Representative. Any greater increases, taken either separately or cumulatively, must
2 be approved by the City Council. It is expressly understood by DLBA that the provisions
3 of this paragraph do not apply to services specifically set forth in the RFP or reasonably
4 contemplated in the RFP. DLBA acknowledges that it accepts the risk that the services to
5 be provided pursuant to the RFP may be more costly or time consuming than DLBA
6 anticipates and that DLBA will not be entitled to additional compensation for the services
7 set forth in the RFP.

8 14. RETENTION OF FUNDS. DLBA authorizes the City to deduct from
9 any amount payable to DLBA (whether or not arising out of this Agreement) any amounts
10 the payment of which may be in dispute or that are necessary to compensate the City for
11 any losses, costs, liabilities or damages suffered by the City, and all amounts for which the
12 City may be liable to third parties, by reason of DLBA's acts or omissions in performing or
13 failing to perform DLBA's obligations under this Agreement. In the event that any claim is
14 made by a third party, the amount or validity of which is disputed by DLBA, or any
15 indebtedness exists that appears to be the basis for a claim of lien, the City may withhold
16 from any payment due, without liability for interest because of the withholding, an amount
17 sufficient to cover the claim. The failure of the City to exercise the right to deduct or to
18 withhold will not, however, affect the obligations of DLBA to insure, indemnify and protect
19 the City as elsewhere provided in this Agreement.

20 15. AMENDMENT. This Agreement, including all Exhibits, shall not be
21 amended, nor any provision or breach waived, except in writing signed by the parties which
22 expressly refers to this Agreement.

23 16. LAW. This Agreement shall be construed in accordance with the laws
24 of the State of California, and the venue for any legal actions brought by any party with
25 respect to this Agreement shall be the County of Los Angeles, State of California for state
26 actions and the Central District of California for any federal actions. DLBA shall cause all
27 work performed in connection with the Scope of Work to be performed in compliance with
28 (1) all applicable laws, ordinances, rules and regulations of federal, state, county or

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1 municipal governments or agencies (including, without limitation, all applicable federal and
2 state labor standards, including the prevailing wage provisions of sections 1770 *et seq.* of
3 the California Labor Code); and (2) all directions, rules and regulations of any fire marshal,
4 health officer, building inspector, or other officer of every governmental agency now having
5 or hereafter acquiring jurisdiction. If any part of this Agreement is found to be in conflict
6 with applicable laws, that part will be inoperative, null and void insofar as it is in conflict
7 with any applicable laws, but the remainder of the Agreement will remain in full force and
8 effect.

9 **17. PREVAILING WAGES.**

10 **A. DLBA agrees that all public work (as defined in California Labor**
11 **Code section 1720) performed pursuant to this Agreement (the "Public Work"), if**
12 **any, shall comply with the requirements of California Labor Code sections 1770 *et***
13 ***seq.* City makes no representation or statement that the Scope of Work, or any**
14 **portion thereof, is or is not a "public work" as defined in California Labor Code**
15 **section 1720.**

16 **B. In all bid specifications, contracts and subcontracts for any**
17 **such Public Work, DLBA shall obtain the general prevailing rate of per diem wages**
18 **and the general prevailing rate for holiday and overtime work in this locality for each**
19 **craft, classification or type of worker needed to perform the Public Work, and shall**
20 **include such rates in the bid specifications, contract or subcontract. Such bid**
21 **specifications, contract or subcontract must contain the following provision: "It shall**
22 **be mandatory for the DLBA to pay not less than the said prevailing rate of wages to**
23 **all workers employed by the DLBA in the execution of any public work or work**
24 **subject to prevailing wage in the performance of this contract. The DLBA expressly**
25 **agrees to comply with the penalty provisions of California Labor Code section 1775**
26 **and the payroll record keeping requirements of California Labor Code section 1771."**

27 **18. ENTIRE AGREEMENT. This Agreement, including all Exhibits,**
28 **constitutes the entire understanding between the parties and supersedes all other**

1 agreements, oral or written, with respect to the subject matter in this Agreement.

2 19. INDEMNITY.

3 A. DLBA shall indemnify, protect and hold harmless City, its
4 Boards, Commissions, and their officials, employees and agents ("Indemnified
5 Parties"), from and against any and all liability, claims, demands, damage, loss,
6 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
7 costs and expenses, including attorneys' fees, court costs, expert and witness fees,
8 and other costs and fees of litigation, arising or alleged to have arisen, in whole or
9 in part, out of or in connection with (1) DLBA's breach or failure to comply with any
10 of its obligations contained in this Agreement, including all applicable federal and
11 state labor requirements including, without limitation, the requirements of California
12 Labor Code section 1770 *et seq.* or (2) negligent or willful acts, errors, omissions or
13 misrepresentations committed by DLBA, its officers, employees, agents,
14 subcontractors, or anyone under DLBA's control, in the performance of work or
15 services under this Agreement (collectively "Claims" or individually "Claim").

16 B. In addition to DLBA's duty to indemnify, DLBA shall have a
17 separate and wholly independent duty to defend Indemnified Parties at DLBA's
18 expense by legal counsel approved by City, from and against all Claims, and shall
19 continue this defense until the Claims are resolved, whether by settlement, judgment
20 or otherwise. No finding or judgment of negligence, fault, breach, or the like on the
21 part of DLBA shall be required for the duty to defend to arise. City shall notify DLBA
22 of any Claim, shall tender the defense of the Claim to DLBA, and shall assist DLBA,
23 as may be reasonably requested, in the defense.

24 C. If a court of competent jurisdiction determines that a Claim was
25 caused by the sole negligence or willful misconduct of Indemnified Parties, DLBA's
26 costs of defense and indemnity shall be (1) reimbursed in full if the court determines
27 sole negligence by the Indemnified Parties, or (2) reduced by the percentage of
28 willful misconduct attributed by the court to the Indemnified Parties.

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1 D. The provisions of this Section shall survive the expiration or
2 termination of this Agreement.

3 20. FORCE MAJEURE. If any party fails to perform its obligations
4 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain
5 labor or materials or reasonable substitutes for labor materials, governmental restrictions,
6 governmental regulations, governmental controls, judicial orders, enemy or hostile
7 governmental action, civil commotion, fire or other casualty, or other causes beyond the
8 reasonable control of the party obligated to perform, then that party's performance will be
9 excused for a period equal to the period of such cause for failure to perform.

10 21. AMBIGUITY. In the event of any conflict or ambiguity between this
11 Agreement and any Exhibit, the provisions of this Agreement shall govern.

12 22. NONDISCRIMINATION. In connection with performance of this
13 Agreement and subject to applicable rules and regulations, DLBA shall not discriminate
14 against any employee or applicant for employment because of race, religion, national
15 origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
16 disability. DLBA shall ensure that applicants are employed, and that employees are treated
17 during their employment, without regard to these bases. These actions shall include, but
18 not be limited to, the following: employment, upgrading, demotion or transfer; recruitment
19 or recruitment advertising; layoff or termination; rates of pay or other forms of
20 compensation; and selection for training, including apprenticeship.

21 23. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
22 accordance with the provisions of the Ordinance, this Agreement is subject to the
23 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
24 Long Beach Municipal Code, as amended from time to time.

25 A. During the performance of this Agreement, the DLBA certifies
26 and represents that the DLBA will comply with the EBO. The DLBA agrees to post
27 the following statement in conspicuous places at its place of business available to
28 employees and applicants for employment:

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1 "During the performance of a contract with the City of Long Beach, the
2 DLBA will provide equal benefits to employees with spouses and its
3 employees with domestic partners. Additional information about the City of
4 Long Beach's Equal Benefits Ordinance may be obtained from the City of
5 Long Beach Business Services Division at 562-570-6200."

6 B. The failure of the DLBA to comply with the EBO will be deemed
7 to be a material breach of the Agreement by the City.

8 C. If the DLBA fails to comply with the EBO, the City may cancel,
9 terminate or suspend the Agreement, in whole or in part, and monies due or to
10 become due under the Agreement may be retained by the City. The City may also
11 pursue any and all other remedies at law or in equity for any breach.

12 D. Failure to comply with the EBO may be used as evidence
13 against the DLBA in actions taken pursuant to the provisions of Long Beach
14 Municipal Code 2.93 et seq., Contractor Responsibility.

15 E. If the City determines that the DLBA has set up or used its
16 contracting entity for the purpose of evading the intent of the EBO, the City may
17 terminate the Agreement on behalf of the City. Violation of this provision may be
18 used as evidence against the DLBA in actions taken pursuant to the provisions of
19 Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

20 24. NOTICES. Any notice or approval required by this Agreement shall
21 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
22 postage prepaid, addressed to DLBA at the address first stated above, and to City at 411
23 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy to
24 the City Clerk at the same address. Notice of change of address shall be given in the same
25 manner as stated for other notices. Notice shall be deemed given on the date deposited
26 in the mail or on the date personal delivery is made, whichever occurs first.

27 25. COVENANT AGAINST CONTINGENT FEES. DLBA warrants that
28 DLBA has not employed or retained any entity or person to solicit or obtain this Agreement

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1 and that DLBA has not paid or agreed to pay any entity or person any fee, commission or
2 other monies based on or from the award of this Agreement. If DLBA breaches this
3 warranty, City shall have the right to terminate this Agreement immediately notwithstanding
4 the provisions of Section 10 or, in its discretion, to deduct from payments due under this
5 Agreement or otherwise recover the full amount of the fee, commission or other monies.

6 26. WAIVER. The acceptance of any services or the payment of any
7 money by City shall not operate as a waiver of any provision of this Agreement or of any
8 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
9 Agreement shall not constitute a waiver of any other or subsequent breach of this
10 Agreement.

11 27. CONTINUATION. Termination or expiration of this Agreement shall
12 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
13 18, 21 and 28 prior to termination or expiration of this Agreement.

14 28. TAX REPORTING. As required by federal and state law, City is
15 obligated to and will report the payment of compensation to DLBA on Form 1099-Misc.
16 DLBA shall be solely responsible for payment of all federal and state taxes resulting from
17 payments under this Agreement. DLBA shall submit DLBA's Employer Identification
18 Number (EIN), or DLBA's Social Security Number if DLBA does not have an EIN, in writing
19 to City's Accounts Payable, Department of Financial Management. DLBA acknowledges
20 and agrees that City has no obligation to pay DLBA until DLBA provides one of these
21 numbers.

22 29. ADVERTISING. DLBA shall not use the name of City, its officials or
23 employees in any advertising or solicitation for business or as a reference, without the prior
24 approval of the City Manager or designee.

25 30. AUDIT. City shall have the right at all reasonable times during the
26 term of this Agreement and for a period of five (5) years after termination or expiration of
27 this Agreement to examine, audit, inspect, review, extract information from and copy all
28 books, records, accounts and other documents of DLBA relating to this Agreement.

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31. THIRD PARTY BENEFICIARY. This Agreement is not intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

DOWNTOWN LONG BEACH ALLIANCE, a California domestic nonprofit corporation

December 11, 2020

By [Signature]
Name Krag Kojian
Title President and CEO

December 11, 2020

By [Signature]
Name Broc Coward
Title COO

"Contractor"

CITY OF LONG BEACH, a municipal corporation

January 13, 2021

By [Signature]
City Manager

"City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

This Agreement is approved as to form on Dec. 16, 2020.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

**DOWNTOWN LONG BEACH ALLIANCE
AND DEPARTMENT OF PUBLIC WORKS
SCOPE OF WORK**

JANUARY 1, 2020 – DECEMBER 31, 2020

**Downtown Transit Corridor Maintenance
First Street between Pacific Avenue and Long Beach Boulevard**

I. Background

In Fiscal Year 2013, the Department of Public Works and Downtown Long Beach Alliance (DLBA) entered into an agreement for DLBA to provide ongoing maintenance in specific transit related areas.

II. Services

Based on discussions between the DLBA and Public Works, Attachment A was developed to outline services to be provided by the DLBA.

III. Budget

The DLBA will fully fund their downtown maintenance operations. Public Works will provide \$224,400 annually to the DLBA with Proposition A funds as well as Refuse funds to offset the scope of work (Attachment A). Prior written approval by the Director of Public Works must be obtained before additional funds can be made available.

IV. Changes to MOU

This Memorandum of Understanding may be altered as needed by mutual written agreement by the President/CEO of the Downtown Long Beach Alliance and the Director of Public Works.

Attachment A

**DOWNTOWN LONG BEACH ALLIANCE (DLBA)
AND DEPARTMENT OF PUBLIC WORKS
SCOPE OF WORK**

JANUARY 1, 2020 – DECEMBER 31, 2020

Project Name: Downtown Long Beach Maintenance

Project Location: First Street between Pacific Avenue and Long Beach Boulevard and
trash receptacles throughout the Downtown Area
(See Attachment B & C for maps)

Project Annual Cost: \$224,400

Project Scope: The following scope of work will be performed by DLBA

Proposition A Eligible Expenses:	\$158,400
I. Trash Receptacles – Daily:	\$63,400
• Includes 20 trash receptacles within the transit mall as well as 34 Prop A eligible trash receptacles located in the Downtown Area (see Attachment B for map)	
• Empty all trash receptacles daily	
• Emptying of receptacles 7 days per week between 7:00 am – 3:30 pm	
II. Pressure Washing – Weekly:	\$55,000
• Clean bus stops and adjacent sidewalks	
• Tuesdays & Thursdays at 6:00am	
III. Landscape Maintenance – Weekly:	\$17,000
• Remove weeds and apply pre-emergent weed control	
• Remove declining or dead plants	
• Prune and shape shrubs	
• Haul away debris	
• Install organic mulch	
• Replace annual plants (up to 150, 1-gallon plants and 12 flats of sedum)	
• Twice per week – Monday & Friday mornings	
IV. Litter Removal – Daily:	\$23,000
• Remove litter from sidewalks between 7:00pm – 12:00 am	
• Thursday/Friday/Saturday sweeping night pass	

Refuse Fund Reimbursement: \$66,000

- V. Trash Receptacles – Daily: \$66,000
- Empty 57 trash receptacles daily throughout the downtown area (see Attachment C for map) in non-Prop A eligible locations.
 - Emptying of receptacles 7 days per week between 7:00 am – 3:30 pm