

C-7

August 23, 2022

HONORABLE MAYOR AND CITY COUNCIL

City of Long Beach

California

RECOMMENDATION:

Adopt a Resolution authorizing the City Manager, or designee, to execute a contract, and any necessary documents including any necessary amendments, with John Gross, dba Financial Management and Systems Consulting, of Scottsdale, AZ, for financial and enterprise system implementation and other consulting services, in an amount not to exceed \$262,080, beginning September 1, 2022 through August 31, 2023. (Citywide)

DISCUSSION

City Council approval is requested to enter into a second contract with John Gross, dba Financial Management and Systems Consulting, for financial and enterprise system implementation consulting services and other services as provided for in the contract and any associated scope definitions. As with the first contract with Mr. Gross, which the City Council approved on October 5, 2021, this contract may be terminated at any time by either party.

The contract includes services in the areas of financial management and the LB COAST Project (Project) including elements of Project Management, Executive Sponsor Support, and Project Quality Assurance (QA) assistance. The scope of services currently provides Embedded Quality Assurance for LB COAST, which is the implementation of the City of Long Beach's (City) Enterprise Resource Planning (ERP) system. This is the City's largest ever technology project. While it is considered a technology project, it has major impacts on administrative operations throughout City departments. Phase I of the Project (Financial Systems) is operational, and Phase II (Payroll, Human Resources, and Budgeting Systems) is underway, having recently pivoted toward soliciting and securing alternative software providers.

Mr. Gross has substantial knowledge of the City, the City's financial and administrative operations, and most importantly, the Project. He remains best and uniquely positioned to benefit the Project as well as provide professional and technical consulting assistance. Mr. Gross served as the Project Sponsor for Phase I and has demonstrated the ability to look at both the big picture and the details of the Project and its needs. The combination of Long Beach-specific expertise and ERP management skills cannot be found elsewhere. Mr. Gross' fee for the services is substantially less than would typically be charged by other vendors able to provide QA services.

HONORABLE MAYOR AND CITY COUNCIL

August 23, 2022

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City Charter Section 1801 requires that contracts for City purchases be awarded to the lowest responsible bidder after a competitive bid process but allows for awards without a competitive bid process if accompanied by a Resolution adopted by the City Council.

This matter was reviewed by Deputy City Attorney Gary J. Anderson on July 15, 2022, Purchasing Agent Michelle Wilson on July 22, 2022, and by Revenue Management Officer Geraldine Alejo on July 28, 2022.

TIMING CONSIDERATIONS

City Council action is requested on August 23, 2022, to ensure a contract is in place expeditiously to align with the work needed on the LB COAST Project.


FISCAL IMPACT

The total contract amount will not exceed \$262,080 for a one-year period. The contract will be funded from the LB COAST Project budget in the General Services Fund Group in the Technology and Innovation Department. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



KEVIN RIPER
DIRECTOR OF FINANCIAL MANAGEMENT

ATTACHMENT - RESOLUTION

APPROVED:



THOMAS B. MODICA
CITY MANAGER

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

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT, AND ANY AMENDMENTS THERETO, WITH JOHN GROSS DBA FINANCIAL MANAGEMENT AND SYSTEMS CONSULTING, WITHOUT ADVERTISING FOR BIDS, FOR FINANCIAL AND ENTERPRISE SYSTEM IMPLEMENTATION AND OTHER CONSULTING SERVICES, IN AN AMOUNT NOT TO EXCEED \$262,080 FOR A PERIOD OF ONE YEAR

WHEREAS, after serving the City for almost ten years, John Gross retired from City service on December 31, 2020;

WHEREAS, John Gross has substantial knowledge of the City, the City's financial and administrative operations, and the LB COAST Project (Project) which is the implementation of the City's Enterprise Resource Planning (ERP) system, the City's largest ever technology project;

WHEREAS, the Project management group and the executive leadership for the Project do not believe Mr. Gross' combination of knowledge and skills can be found elsewhere;

WHEREAS, Mr. Gross was the Project Sponsor for Phase I and has demonstrated the ability to look at both the big picture and the details of the Projects and its needs.

WHEREAS, Now Mr. Gross' continued services are required for Phase II of the Project;

WHEREAS, City Charter Section 1801 requires that contracts for City purchases be awarded to the lowest responsible bidder after a competitive bid process

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

1 but allows for awards without a competitive bid process if accompanied by a Resolution
2 adopted by the City Council.

3 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
4 follows:

5 Section 1. The City Council acknowledges that John Gross possesses
6 substantial knowledge of the City and the LB COAST Project which cannot be procured
7 elsewhere or through a competitive bid process.

8 Section 2. The City Manager, or designee, is authorized to execute a
9 contract, and any necessary documents, including any necessary amendments, with
10 John Gross DBA Financial Management and Systems Consulting for financial and
11 enterprise system implementation and other consulting services in an semi-annual
12 amount not to exceed \$262,080, for a period of one year.

13 Section 3. This resolution shall take effect immediately upon its adoption
14 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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CHARLES PARKIN, City Attorney
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I hereby certify that the foregoing resolution was adopted by the City
Council of the City of Long Beach at its meeting of _____, 2022,
by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s) Councilmembers: _____

City Clerk

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

1 INDEPENDENT CONTRACTOR AGREEMENT

2
3 THIS AGREEMENT is made and entered, in duplicate, as of September 1,
4 2022, for reference purposes only, pursuant to a minute order adopted by the City Council
5 of the City of Long Beach at its meeting on August 23, 2022, by and between JOHN
6 GROSS, DBA FINANCIAL MANAGEMENT AND SYSTEMS CONSULTING, an
7 Independent Contractor, with a place of business located at 5652 E. Grandview Road,
8 Scottsdale, AZ 85254 ("Consultant"), and the CITY OF LONG BEACH, a municipal
9 corporation ("City").

10 WHEREAS, the City requires specialized services requiring unique skills to
11 be performed in connection with Special Projects within the Financial Management
12 Department ("Project"); and

13 WHEREAS, City has selected Consultant in accordance with City's
14 administrative procedures and City has determined that Consultant is qualified and
15 experienced in performing these specialized services; and

16 WHEREAS, Consultant has 47 years of experience as a Finance Director, a
17 Fiscal Chief or higher-management level position and is experienced in budgeting and
18 national budget standards; and

19 WHEREAS, City desires to have Consultant perform specialized services on
20 Special Projects, and Consultant is willing and able to do so on the terms and conditions
21 in this Agreement; and

22 WHEREAS, the scope of work Consultant will perform has not been done in
23 the City before and will be Special Projects that no City employee routinely performs; and

24 WHEREAS, the Special Projects anticipated under this agreement are
25 expected to be done remotely and performed without direction from the City; and

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

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1. SCOPE OF WORK OR SERVICES AND FEES.

A. Consultant shall furnish City with specialized services for Special Projects more particularly described in Exhibit "A", (Scope of Services). Exhibit "A" is attached to this Agreement and incorporated by this reference.

B. City shall pay Consultant an amount not to exceed Two Hundred Sixty-Two Thousand and Eighty Dollars (\$262,080), for a period of one year. Said services shall be performed in accordance with the standards of the profession. Consultant shall provide a not to exceed cost as well as pricing for each deliverable within a project's scope. Monthly progress payments will be made based on deliverables. Where intermediate deliverables cannot be specified, the monthly billings will be based on the ratio of documented actual hours to estimated total hours, not to exceed 100% of the estimated total hours.

C. Consultant may select the time and place of performance for these services provided, however, that access to City documents, records, and the like, if needed by Consultant, shall be available only during City's normal business hours and provided that milestones for performance, if any, are met.

D. Consultant has requested to receive regular payments. City shall pay Consultant in due course following receipt from Consultant and approval by City of invoices showing the services or task performed, and the name of the Project. Consultant shall certify on the invoices that Consultant has performed the services in full conformance with this Agreement and is entitled to receive payment.

E. Consultant represents that Consultant has obtained all necessary information on conditions and circumstances that may affect its performance and has conducted site visits, if necessary.

F. CAUTION. Consultant shall not begin work until this Agreement has been signed by both parties and until Consultant's evidence of insurance has been delivered to and approved by the City.

2. TERM. The term of this Agreement shall commence on

1 September 1, 2022, and terminate on August 31, 2023 unless terminated by either party
2 for any reason.

3 3. COORDINATION AND ORGANIZATION.

4 Consultant shall coordinate its performance with City's representative, Kevin
5 Riper, Director of Financial Management. Consultant shall advise and inform City's
6 representative of the work in progress on the Project in sufficient detail so as to assist City's
7 representative in making presentations and in holding meetings on the Project.

8 4. INDEPENDENT CONTRACTOR. In performing its services,

9 Consultant is and shall act as an independent contractor and not an employee,
10 representative, or agent of City. Consultant shall have control of Consultant's work and
11 the manner in which it is performed. Consultant shall be free to contract for similar services
12 to be performed for others during this Agreement provided, however, that Consultant acts
13 in accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
14 and agrees that: a) City will not withhold taxes of any kind from Consultant's compensation,
15 b) City will not secure workers' compensation or pay unemployment insurance to, for or on
16 Consultant's behalf, and c) City will not provide and Consultant is not entitled to any of the
17 usual and customary rights, benefits or privileges of City employees. Consultant expressly
18 warrants that neither Consultant nor any of Consultant's employees or agents shall
19 represent themselves to be employees or agents of City.

20 5. INSURANCE.

21 A. As a condition precedent to the effectiveness of this
22 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
23 duration of this Agreement, from insurance companies that are admitted to write
24 insurance in California and have ratings of or equivalent to A:V by A.M. Best
25 Company or from authorized non-admitted insurance companies subject to Section
26 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
27 by A.M. Best Company the following insurance:

28 Commercial general liability insurance (equivalent in scope to ISO

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

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

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

27 D. If this coverage is written on a "claims made" basis, it must
28 provide for an extended reporting period of not less than one hundred eighty (180)

1 days, commencing on the date this Agreement expires or is terminated, unless
2 Consultant guarantees that Consultant will provide to the City evidence of
3 uninterrupted, continuing coverage for a period of not less than three (3) years,
4 commencing on the date this Agreement expires or is terminated.

5 E. Consultant shall require that all subconsultants or contractors
6 which Consultant uses in the performance of these services maintain insurance in
7 compliance with this Section unless otherwise agreed in writing by City's Risk
8 Manager or designee.

9 F. Prior to the start of performance, Consultant shall deliver to City
10 certificates of insurance and the endorsements for approval as to sufficiency and
11 form. In addition, Consultant, shall, within thirty (30) days prior to expiration of the
12 insurance, furnish to City certificates of insurance and endorsements evidencing
13 renewal of the insurance. City reserves the right to require complete certified copies
14 of all policies of Consultant and Consultant's subconsultants and contractors, at any
15 time. Consultant shall make available to City's Risk Manager or designee all books,
16 records and other information relating to this insurance, during normal business
17 hours.

18 G. Any modification or waiver of these insurance requirements
19 shall only be made with the approval of City's Risk Manager or designee. Not more
20 frequently than once a year, the City's Risk Manager or designee may require that
21 Consultant, Consultant's subconsultants and contractors change the amount, scope
22 or types of coverages required in this Section if, in his or her sole opinion, the
23 amount, scope, or types of coverages are not adequate.

24 H. The procuring or existence of insurance shall not be construed
25 or deemed as a limitation on liability relating to Consultant's performance or as full
26 performance of or compliance with the indemnification provisions of this Agreement.

27 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
28 contemplates the personal services of Consultant and the parties acknowledge that a

1 substantial inducement to City for entering this Agreement was and is the professional
2 reputation and competence of Consultant. The parties acknowledge neither party may
3 assign or otherwise dispose of its rights or obligations under this Agreement without the
4 prior written consent of the other party. Any unapproved assignment or delegation shall
5 be void, and any assignee or delegate shall acquire no right or interest by reason of an
6 attempted assignment or delegation

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

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

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

25 Consultant retains all rights to any information, work, invention, or
26 development in any form or medium, including all materials, documents, information,
27 software, or technology, created by Consultant as a result of performing the services
28 except as otherwise provided in this Agreement.

1 10. TERMINATION. Either party shall have the right to terminate this
2 Agreement for any reason or no reason, at any time, by giving ten (10) calendar days prior
3 notice to the other party. In the event of termination under this Section, City shall pay
4 Consultant for services satisfactorily performed and costs incurred up to the effective date
5 of termination for which Consultant has not been previously paid.

6 11. CONFIDENTIALITY. The obligations of confidentiality and
7 nondisclosure survive the termination of this Agreement. Either party may disclose to other
8 party information, data, concepts, ideas, processes, methods, techniques, formulas, know-
9 how, trade secrets, and improvements which are confidential and proprietary to the
10 disclosing party (hereinafter referred to as "Confidential Information") so that Consultant
11 can perform the Services. Confidential Information shall remain the property of the
12 disclosing party. The receiving party agrees to hold all Confidential Information in
13 confidence and will exercise the same degree of care to prevent disclosure to others as it
14 takes to preserve and safeguard his/its own Confidential Information, but not less than a
15 reasonable degree of care. The receiving party agrees not to disclose otherwise
16 disseminate the Confidential Information to others. The receiving party will not reproduce
17 Confidential Information nor use Confidential Information commercially or for any purpose
18 other than the performance of his or its obligations under this Agreement.

19 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
20 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
21 Consultant knew prior to the time Consultant was an employee of City or City disclosed to
22 Consultant; or (b) is or becomes publicly available without breach of this Agreement by
23 Consultant; or (c) a third party who has a right to disclose does so to Consultant without
24 restrictions on further disclosure; or (d) must be disclosed pursuant to subpoena or court
25 order.

26 13. ADDITIONAL COSTS AND REDESIGN.

27 Any costs incurred by the City due to Consultant's failure to meet the
28 standards required by the scope of work or Consultant's failure to perform fully the tasks

1 described in the scope of work which, in either case, causes the City to request that
2 Consultant perform again all or part of the Scope of Work shall be at the sole cost of
3 Consultant and City shall not pay any additional compensation to Consultant for its re-
4 performance.

5 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
6 amended, nor any provision or breach waived, except in writing signed by the parties which
7 expressly refers to this Agreement.

8 15. LAW. This Agreement shall be governed by and construed pursuant
9 to the laws of the State of California (except those provisions of California law pertaining
10 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and
11 regulations of and obtain all permits, licenses, and certificates required by all federal, state
12 and local governmental authorities.

13 16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
14 constitutes the entire understanding between the parties and supersedes all other
15 agreements, oral or written, with respect to the subject matter in this Agreement.

16 17. INDEMNITY. Consultant shall, with respect to services performed in
17 connection with this Agreement, indemnify and hold harmless the City, its Boards,
18 Commissions, and their officials, employees and agents (collectively in this Section, "City")
19 from and against any and all liability, claims, demands, damage, loss, causes of action,
20 proceedings, penalties, costs and expenses (including attorney's fees, court costs, and
21 expert and witness fees) (collectively "Claims" or individually "Claim"). Claims include
22 allegations and include Claims for property damage, personal injury or death arising in
23 whole or in part from any negligent act or omission of Consultant, its officers, employees,
24 agents, sub-consultants, or anyone under Consultant's control (collectively "Indemnitor");
25 recklessness; and willful misconduct. Independent of the duty to indemnify, but only to the
26 extent permitted by law and specifically by Civil Code Section 2782.8, and as a free-
27 standing duty on the part of Consultant, Consultant shall defend City and shall continue
28 this defense until the Claim is resolved, whether by settlement, judgment or otherwise. No

1 finding or judgment of negligence, fault, breach, or the like on the part of Indemnitor shall
2 be required for the duty to defend to arise. Consultant shall notify the City of any Claim
3 within ten (10) days. Likewise, City shall notify Consultant of any Claim, shall tender the
4 defense of the Claim to Consultant, and shall assist Consultant at Consultant's sole
5 expense, as may be reasonably requested, in the defense.

6 18. AMBIGUITY. In the event of any conflict or ambiguity between this
7 Agreement and any Exhibit, the provisions of this Agreement shall govern.

8 19. COSTS. If there is any legal proceeding between the parties to
9 enforce or interpret this Agreement or to protect or establish any rights or remedies under
10 it, the prevailing party shall be entitled to its costs, including reasonable attorneys' fees.

11 20. NONDISCRIMINATION.

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

21 B. It is the policy of City to encourage the participation of
22 Disadvantaged, Minority and Women-owned Business Enterprises in City's
23 procurement process, and Consultant agrees to use its best efforts to carry out this
24 policy in its use of subconsultants and contractors to the fullest extent consistent
25 with the efficient performance of this Agreement. Consultant may rely on written
26 representations by subconsultants and contractors regarding their status.
27 Consultant shall report to City in May and in December or, in the case of short-term
28 agreements, prior to invoicing for final payment, the names of all subconsultants

1 and contractors hired by Consultant for this Project and information on whether or
2 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
3 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

4 21. NOTICES. Any notice or approval required by this Agreement shall
5 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
6 postage prepaid, addressed to Consultant at the address first stated above, and to the City
7 at 411 West Ocean Boulevard, Long Beach, CA 90802, Attn: City Manager. Notice of
8 change of address shall be given in the same manner as stated for other notices. Notice
9 shall be deemed given on the date deposited in the mail or on the date personal delivery
10 is made, whichever occurs first.

11 22. COPYRIGHTS AND PATENT RIGHTS. Consultant warrants that the
12 Data does not violate or infringe any patent, copyright, trade secret or other proprietary
13 right of any other party. Consultant agrees to and shall protect, defend, indemnify and hold
14 City, its officials and employees harmless from any and all claims, demands, damages,
15 loss, liability, causes of action, costs or expenses (including reasonable attorneys' fees)
16 whether or not reduced to judgment, arising from any breach or alleged breach of this
17 warranty.

18 23. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
19 that Consultant has not employed or retained any entity or person to solicit or obtain this
20 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,
21 commission, or other monies based on or from the award of this Agreement. If Consultant
22 breaches this warranty, City shall have the right to terminate this Agreement immediately
23 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
24 due under this Agreement or otherwise recover the full amount of the fee, commission, or
25 other monies.

26 24. WAIVER. The acceptance of any services or the payment of any
27 money by City shall not operate as a waiver of any provision of this Agreement or of any
28 right to damages or indemnity stated in this Agreement. The waiver of any breach of this

1 Agreement shall not constitute a waiver of any other or subsequent breach of this
2 Agreement.

3 25. CONTINUATION. Termination or expiration of this Agreement shall
4 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
5 17, 19, and 22 prior to termination or expiration of this Agreement.

6 26. TAX REPORTING. As required by federal and state law, City is
7 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc.
8 Contractor shall be solely responsible for payment of all federal and state taxes resulting
9 from payments under this Agreement. Contractor shall submit Contractor's Employer
10 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not
11 have an EIN, in writing to City's Accounts Payable, Department of Financial Management.
12 Contractor acknowledges and agrees that City has no obligation to pay Contractor until
13 Contractor provides one of these numbers.

14 27. AUDIT. City shall have the right at all reasonable times during the
15 term of this Agreement and for a period of two (2) years after termination or expiration of
16 this Agreement to examine, audit, inspect, review, extract information from, and copy all
17 books, records, and other documents of Consultant relating to this Agreement.

18 28. CITY'S RESPONSIBILITIES. Without limiting the generalities of any
19 exclusion set forth in this Agreement, City will be exclusively responsible as between the
20 parties for and Consultant expressly makes no warranty or representation with respect to
21 ensuring the accuracy of information or data provided from City to Consultant;

22 It is the intent of the parties that in Consultant's performance under this
23 agreement, Consultant shall at all times be considered a wholly independent contractor. It
24 is agreed that City has no right to control the manner nor means under which Consultant
25 performs the specialized services contracted for.

26 29. DISCLAIMER BY CONSULTANT. The express warranties and
27 representations set forth in this Agreement are in lieu of and Consultant expressly disclaims
28 all other warranties, conditions, representations (expressed or implied, oral or written), with

1 respect to the services, any products developed as a result of the services, or any activities
2 undertaken by anyone as a result of the services, including all implied warranties or
3 conditions of title, noninfringement, merchantability, or fitness or suitability for any purpose,
4 whether alleged to arise by law, by reason or custom or usage in the trade, or by course of
5 dealing. In addition, Consultant expressly disclaims any warranty or representation to any
6 person other than City with respect to the services, any products developed as a result of
7 the services, or any activities undertaken by anyone as a result of the services. The
8 language in this provision is not meant or intended to negate or be in conflict with provision
9 No. 13 which Consultant agrees to honor.

10 30. FORCE MAJEURE. Either party shall be temporarily excused from
11 performing under this agreement if any force majeure or other occurrence beyond the
12 reasonable control of either party makes such performance impossible. Under such
13 circumstances, performance under this agreement related to the delay shall be suspended
14 for the duration of the delay. Once the delaying event subsides, the delayed party shall
15 resume performance of its obligations with due diligence. The parties shall use their best
16 efforts to overcome the cause and effect of any such suspension.

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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.

JOHN GROSS, DBA FINANCIAL MANAGEMENT AND SYSTEMS CONSULTING, an Independent Contractor

_____, 2022

By _____

“Consultant”

CITY OF LONG BEACH, a municipal corporation

_____, 2022

By _____

City Manager

“City”

This Agreement is approved as to form on _____, 2022.

CHARLES PARKIN, City Attorney

By _____

Assistant City Attorney

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