77 Fair Drive
Costa Mesa, CA 92626

City of Costa Mesa

Agenda Report

File #: 22-863 **Meeting Date:** 10/4/2022

TITLE:

SCOPE OF WORK FOR AN AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF COSTA MESA, PROVIDING FOR $3.5 MILLION IN STATE FUNDS TO THE CITY FOR COMMUNITY OUTREACH AND LAND USE PLANNING EFFORTS FOR THE FAIRVIEW DEVELOPMENTAL CENTER SITE

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTED BY: JENNIFER LE, DIRECTOR OF ECONOMIC AND DEVELOPMENT SERVICES

CONTACT INFORMATION: JENNIFER LE, DIRECTOR OF ECONOMIC AND DEVELOPMENT SERVICES, (714) 754-5617

RECOMMENDATION:

Staff recommends the City Council:

1. Approve the scope of work and related exhibits for an Agreement with the State of California to fund planning services relating to the Fairview Developmental Center, in a form of standard agreement to be approved by the City Attorney.

2. Authorize the City Manager and the City Clerk to execute any and all documents necessary for this Agreement.

3. Authorize revenue and expense appropriations in the amount of $3.5 million respectively, for the Agreement between the City of Costa Mesa and the State of California.

BACKGROUND:

The Fairview Developmental Center (FDC) site is a 109-acre property owned by the State of California located at 2501 Harbor in the City of Costa Mesa. The site was developed and previously operated by the State as a residence for developmentally disabled persons, but is now largely vacant. The site has been the subject of discussion between various agencies over the years as to its future potential use and disposition.

In 2020, the City Council created an Ad Hoc Committee to advise staff on matters related to the FDC and present recommendations to the City Council as needed. In 2020, the Council identified a vision statement for FDC that included support for 1,500 mixed use/mixed income housing units at

the site, including workforce, veterans, and permanent supportive housing. The Council directed staff to continue to coordinate with the State with the goal of maintaining local input into future development options and the final disposition of the site.

The City's Housing Element as adopted on February 1, 2022 lists FDC as a housing opportunity site and estimated approximately 2,300 housing units could be accommodated at the location. It also included a "program" or future action calling for the City to continue to coordinate with the State to define future uses including establishment of a Specific Plan to allow for residential development at the site consistent with the Housing Element.

In June 2022, the State approved Government Code Section 14670.31, which outlines the general terms under which the State of California, through the Department of General Services and the Department of Developmental Services, will collaborate with the City to determine the future of the FDC site. This Section sets forth the State's goals and requirements for the disposition of the property and a land use planning process to be conducted by the City for the future use of the property and allocates $3.5 million in funding for that intended purpose. The subject Agreement between the City and the State memorializes the funding allocation and its intended use.

ANALYSIS:

The subject Agreement is between the City of Costa Mesa and the State of California (State). It stipulates that the State will provide up to $3.5 million in funds to the City to support an up to three-year agreement for a City-led local outreach and land planning effort for the FDC site. The funds will be provided to the City within 30 days of the date of the Agreement to pay for costs associated with planning for future land uses at the FDC site, to include the following:

- Robust Community Engagement including but not limited to meetings, townhalls, and design charrettes and presentations;
- Comprehensive Conditions Report;
- Technical studies including economic market demand report, water supply assessment, and other infrastructure studies;
- Creation of site concepts, concept drawings, and exhibits;
- Conceptual Alternatives and a Preferred Plan Framework;
- Preparation of a Specific Plan and associated implementation strategies;
- Associated General Plan and Zoning amendments (as appropriate);
- Preparation of a draft and final Environmental Impact Report, associated technical studies, and a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act (CEQA);
- Public Hearings; and
- City review of a State-prepared Request for Proposals to retain a consultant to construct the local vision as established by the City.

Funds may be used to retain consultants as well as for staff costs associated with the management, oversight, review, tracking, and reporting associated with the land use planning and site disposition process.

Consistent with the Government Code, the Agreement specifies that:

- Housing shall be a priority in the planning process;
- Any housing that is determined to be appropriate for the property shall include affordable housing; and
- Any housing opportunities on the property shall give priority to projects that include deed restricted housing for individuals with developmental disabilities.

The City must complete the final draft Specific Plan and associated documents within three years of the date of the Agreement and report to the State quarterly as to its progress and expenditures.

Should the Council approve the Agreement, staff will assemble a project team; release an RFP for consultant services; and begin preliminary planning efforts.

ALTERNATIVES:

The City Council could modify the specifications of this project (subject to concurrence by the State) or not approve staff's recommendation.

FISCAL REVIEW:

This action does not have a fiscal impact to the General Fund. Upon approval of the Agreement and acceptance of the funds from the State of California, revenue and expense appropriations in the amount of $3.5 million respectively will be established for the FDC site.

LEGAL REVIEW:

This agenda report and the Contract have been reviewed and approved as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Diversify, Stabilize, and Increase Housing To Reflect Community Needs

CONCLUSION:

Staff recommends that the City Council approve the scope of work and related exhibits for an Agreement with the State of California to fund planning services relating to the Fairview Developmental Center, in a form of standard agreement to be approved by the City Attorney, and authorize the City Manager and City Clerk to execute any and all documents necessary for the Agreement, and to approve related revenue and expense appropriations.

EXHIBIT A
SCOPE OF WORK

In accordance with the provisions of Government Code section 14670.31, the Department of Developmental Services (hereinafter "Department") and the City of Costa Mesa (hereinafter "City") do agree as follows:

1. In June 2022, the State Legislature passed, and the Governor approved, Government Code section 14670.31 , outlining the general terms under which the State of California, through the Department, will partner with the City to determine the future of the state-owned real property known as the Fairview Developmental Center, located in Costa Mesa, California (the "property"). Government Code section 14670.31 became effective on June 30, 2022, and sets forth the state's goals and requirements for the disposition of the property by the Department and a land use planning process to be conducted by the City for the future use of the property.

2. The Department will pay the City for costs associated with land use planning services and management of the land use planning process related to the property to determine the appropriate future land uses and development potential of the property. Eligible costs are specified in section A.4 of Exhibit B.

3. The planning services shall include completing an Environmental Impact Report, which may be at a project- or programmatic- level (EIR), completing a report on the economic feasibility of future development, and developing a Specific Plan and related documents to facilitate the disposition of the property, as contemplated by Government Code section 14670.31. The Specific Plan and related documents shall be consistent with Government Code section 65450, et seq., and the City General Plan, as may be amended. The final draft Specific Plan shall identify the allowable land uses for the property, including allowable locations, densities and or intensities for development, the infrastructure necessary to support the buildout of the Specific Plan and Specific Plan implementation measures. The final draft Specific Plan may include design guidelines to clarify the desired form of development on the property. An EIR will analyze Plan buildout. The final draft Specific Plan may be accompanied by associated draft amendments to the City's General Plan and Zoning Code to ensure consistency among these regulatory documents. Subject to section 5 of this agreement, the land use planning process, final draft Specific Plan and related documents shall meet all provisions of Government Code section 14670.31 including, but not limited to:
    A. Housing shall be a priority in the planning process;
    B. Any housing that is determined to be appropriate for the property shall include affordable housing;
    C. Any housing opportunities on the property shall give priority to projects that include deed restricted housing for individuals with developmental disabilities.

4. The City shall provide land use planning services necessary for the development of a Specific Plan for the property as specified in Government Code section 14670.31 including , but not limited to, the following deliverables (collectively, the "Specific Plan project"):

    A. Robust Community Engagement Strategy (and implementation thereof)
    B. Comprehensive Conditions Report on the property and its setting
    C. Economic Market Demand Report
    D. Water Supply Assessment and coordination among Water Agencies
    E. Project Conceptual Alternatives & a Preferred Plan Framework
    F. Draft Specific Plan with Implementation Strategies
    G. Public Draft Initial Study and Notice of Preparation, if required
    H. Public Draft Environmental Impact Report
    I. Draft Final Environmental Impact Report and Mitigation Monitoring and Reporting Program
    J. Final Draft Specific Plan and Environmental Impact Report
    K. Public hearings for EIR certification and Specific Plan adoption, including any General Plan and zoning amendments identified as necessary for consistency.

5. This agreement does not prescribe the contents of the specific plan and related planning documents, and does not constitute a commitment to any definite course of action beyond the land use planning process and services set forth in this agreement and in accordance with Government Code section 14670.31. The City will conduct the environmental review process to inform the contents of the specific plan and related planning documents, in compliance with the California Environmental Quality Act ("CEQA"), and will consider community input and the plan objectives identified in Government Code section 14670.31. This agreement shall not commit the City Council to a particular legislative act. The City retains full discretion as the planning agency and lead agency to (i) develop, revise, and determine the contents of the specific plan considering community input and the environmental review process; (ii) select and consider a reasonable range of alternatives in compliance with CEQA; (iii) consider the benefits of adopting a specific plan against any unavoidable significant environmental impacts, if any, prior to taking final action; and/or (iv) adopt an alternative or revised specific plan or determine not to proceed with adoption of a specific plan.

6. The Specific Plan and the associated EIR shall be developed, with any related General Plan Amendments and Zoning Amendments as necessary, in final form for consideration by the City Council, within three years of the City's acceptance of this agreement. Exhibit B-2 provides a schedule for Specific Plan completion including major deliverables. Modifications to the proposed schedule that may impact the final deadline must be approved by both Parties in writing. This agreement shall not commit the City Council to a particular legislative act.

7. The City shall provide the Department with quarterly reports as follows:

a. The City shall provide the Department with quarterly reports by the last day of each calendar quarter, starting with the end of quarter following the execution of this agreement and each quarter thereafter. Reports shall include the following:
    i. City's costs for land use planning services including copies of itemized consultant invoices received and paid during the previous quarter, receipts for other authorized expenses paid during the preceding quarter, and an accounting of all City staff time billed against the project.
    ii. A progress report that compares the current status with the project schedule and includes a list of deliverables completed and the estimated dates for completion of the remaining deliverables.
b. Reports shall be submitted to:
    i. Frances Chacon; Frances.Chacon@dds.ca.gov

8. The City shall submit information required by Government Code section 14670.31 and this agreement in a timely manner to include an accounting of the City's expenditures and progress toward a final specific plan among the disclosed information.

9. Preparation for or attendance by City staff or consultants at meetings outside of the scope of work identified for the preparation of the Specific Plan project and costs in excess of $3.5 million shall be the responsibility of the City.

10. The Authorized Representatives during the term of this agreement will be:

City of Costa Mesa
Jennifer Le
Director of Economic and Development Services
City of Costa Mesa
77 Fair Drive, Costa Mesa, CA 92626
(714) 754-5617
jennifer.le@costamesaca.gov

Department of Developmental Services
Carla Castañeda
1215 O St, 9th Floor
Sacramento, CA 95814
(916) 654-1897
Carla.castaneda@dds.ca.gov

11. The City will manage the land use planning process, and the Department of General Services (DGS) will carry out the disposition process in accordance with Government Code section 14670.31. To facilitate the expeditious land use planning and disposition process, it is expected that DGS will issue an RFP and solicit proposals to develop the property during the land use planning process, subject to

consistency with any final, approved Specific Plan.

12. At the DGS's request, the City shall review and provide comment on the DGS's RFP to dispose of and/or develop the property at such time that the RFP is prepared and prior to its issuance. The City shall review the RFP to provide comments on its consistency with the land use planning process for the Specific Plan.

13. At DGS's request and in a manner prescribed by the Department, the City shall review any proposals submitted in response to the DGS's RFP to develop the property and provide comment on the potential inconsistencies with the final Specific Plan.

14. Under an at-cost agreement or other cost reimbursement mechanism between the selected developer(s) or buyer(s) and the City of Costa Mesa, the City shall promptly process all applications for project specific entitlements upon application by the selected buyer(s) or developer(s), to ensure the integration of the land use planning process with the disposition process for the property in accordance with Government Code section 14670.31. While the Department and the City recognize that complete processing of project-specific entitlements may not occur within the period of this agreement, both parties commit to using reasonable efforts to carry out the land use planning and disposition process in a cooperative manner and to the expeditious planning of future land uses for the property. The Department and the City contemplate that certain processing activity may occur concurrently with the Specific Plan process or thereafter, including for example the following:

    a. A developer or buyer may submit entitlements concurrent with the Specific Plan process to reduce timeframe or phase entitlements with Master Plan/Preliminary Plan.
    b. A developer or buyer may submit entitlement applications for subdivision and concurrent tentative maps/precise development plans or phase these.
    c. Final Design Review may be done concurrently or sequentially with grading and building plans.

15. The Department and the City each recognize that time is of the essence necessitating prompt review and processing of the items subject to this agreement.

16. In the event the City does not adopt a specific plan, the State of California reserves its right to pursue, through the Department, other disposition alternatives as permitted by law.

EXHIBIT B

BUDGET DETAIL PROVISIONS

A. Reporting

1. The City shall provide the Department with quarterly reports that include the City's costs for land use planning services, and including consultant costs, under this agreement and a progress report that compares the current status with the project schedule and includes a list of deliverables completed and the estimated dates for completion of the remaining deliverables. The cost report shall include copies of: 1) itemized consultant invoices received and paid during the previous quarter, 2) receipts for other authorized expenses paid during the previous quarter, and 3) an accounting of all City staff time billed against the project.
2. Quarterly reports will be submitted quarterly in arrears to:

   Frances Chacon
   Department of Developmental Services
   1215 O St, 9th Floor
   Sacramento, CA 95814

   Gerald G. McLaughlin
   Asset Management Branch
   Department of General Services
   State of California
   707 3rd Street, 5th Floor
   West Sacramento, CA 95605
3. The total amount paid by the Department under this agreement shall not exceed $3.5 million. The Department will advance $3.5 million to the City within 30 days of execution of this agreement to be credited to a dedicated trust account at the City. In the event the City's cost for land use planning services and consultant costs is less than $3.5 million, or the agreement is canceled for any reason, or no reason at all, the City shall reimburse the Department any unspent funds.

4. Costs incurred by the City to carry out the land use planning activities provided in this agreement and in Government Code section 14670.31 for disposition of the property, may be paid for under this agreement, include but are not limited to:

a. City staff and consultant costs specifically related to the development and possible approval of a Specific Plan, General Plan amendment, related draft ordinances, and rezone of Fairview Developmental Center. City costs include planning services, project management and oversight of staff and consultants, contract management, legal services, analyst services, clerical services, GIS mapping, as well as software, time, and materials prorated accordingly as needed to fulfill the scope of services for the Specific Plan and associated documents. Such costs may include those for: preparation of agendas, meeting notices, minutes; public notice, mailers, web postings, site signs; GIS services (maps); studies review; preparation and attendance at internal, stakeholder and community meetings; public affairs and communications; creating presentations; reviewing all Consultant-generated materials associated with the preparation of a draft Specific Plan, its associated EIR, and any draft General Plan or Zoning Amendments; preparation and review of quarterly reports and invoices; reviewing State Request for Proposal and developer proposal(s); reviewing Developer Agreements; and processing developer entitlements subject to reimbursement of developer's entitlement processing fees on an at-cost basis under a signed agreement or other cost reimbursement mechanism between the developer(s) and the City of Costa Mesa. The consultant costs include the Deliverables in Exhibit A; and

b. Other reasonable and necessary costs determined by the Department to be incurred for the purpose of the City's preparation of a draft Specific Plan and its related management of the land use planning process for the property, including but not limited to costs associated with securing a consultant to support the City's preparation of a Specific Plan through a competitive Request for Proposals (RFP) and any preparatory work related to the RFP process in accordance with Government Code section 14670.31.

EXHIBIT B-1
Integrated Process for City Planning and State
Disposition of the Fairview Developmental Center Site

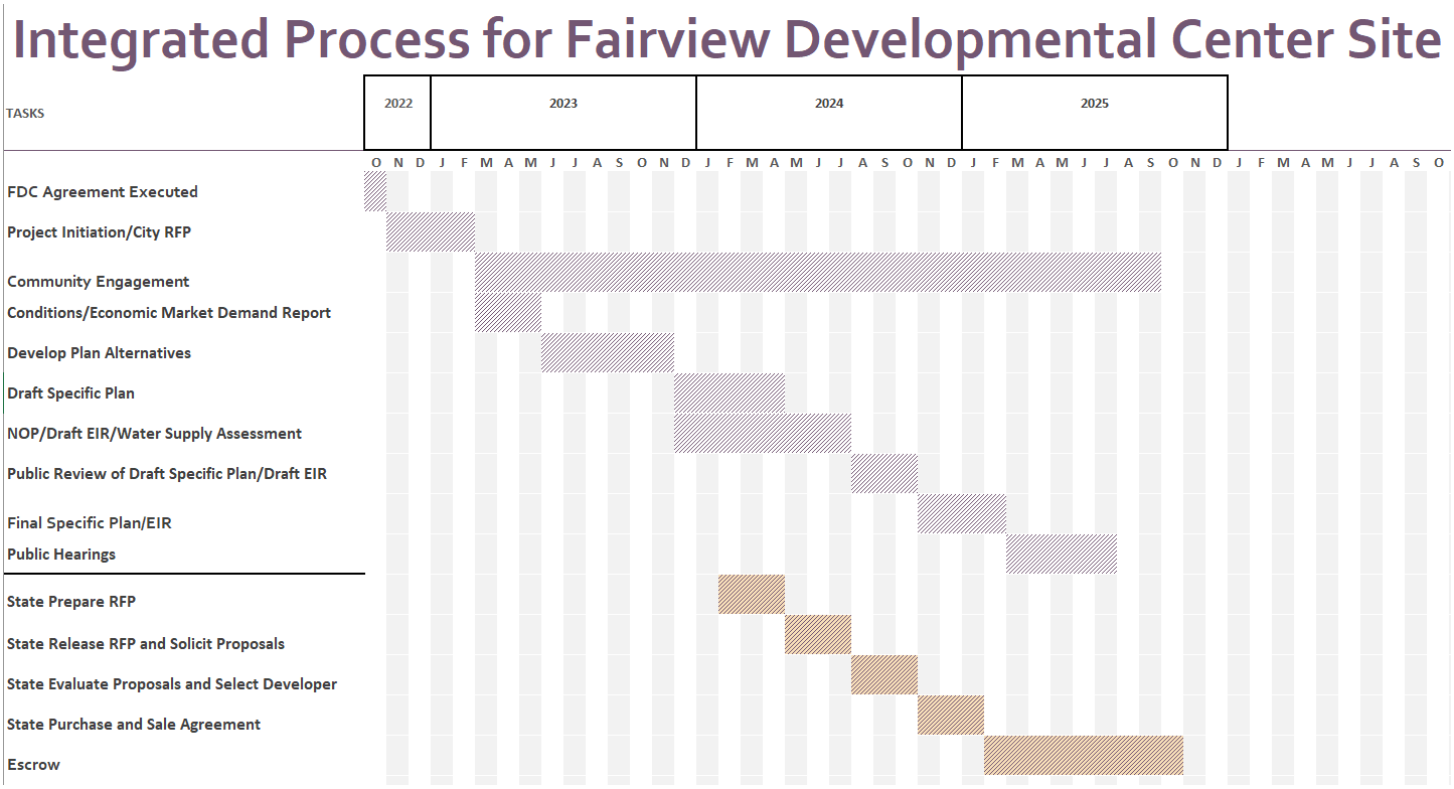

EXHIBIT C

MODIFIED General Terms and Conditions (Modifies GTC 04/2017 version)

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. Any portion of the advance payment to the City which is unspent at such time shall be returned to the State.

8. INDEPENDENT CONTRACTOR*:* Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

   Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

10. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

11. TIMELINESS: Time is of the essence in this Agreement.

12. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

13. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

14. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of $100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

    a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

    b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

15. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

16. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of $200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

17. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. The Department and the City agree that this agreement may be amended by written mutual consent of the parties hereto.

2. The City agrees to provide the Department with any resolution, motion, order or ordinance of the City's governing body needed to authorize execution of this agreement.

Reset Form | Print Form | **SCO ID:**

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

HD229061	PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Developmental Services

CONTRACTOR NAME

City of Costa Mesa

2. The term of this Agreement is:

START DATE

October 2022, or upon DGS/OLS approval, whichever is later

THROUGH END DATE

3 years from the date of DGS/OLS approval

3. The maximum amount of this Agreement is:

$3,500,000 – Three Million, Five Hundred Thousand Dollars

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	1-4
Exhibit B	Budget Detail and Payment Provisions	5-7
Exhibit C *	General Terms and Conditions	8-10
+ - Exhibit D	Special Terms and Conditions	11

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at https://www.dgs.ca.gov/OLS/Resources

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
City of Costa Mesa

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
77 Fair Drive	Costa Mesa	CA	92626

PRINTED NAME OF PERSON SIGNING	TITLE
Jennifer Le	Director of Economic and Development Services

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Developmental Services

CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
1215 O St, 9th Floor	Sacramento	CA	95814

PRINTED NAME OF PERSON SIGNING	TITLE
Carla Castañeda	Chief Deputy Director, Operations

CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED

DRAFT

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)

DRAFT