



NORTH SAN MATEO COUNTY SANITATION DISTRICT

a subsidiary of the City of Daly City

333 – 90TH STREET, DALY CITY, CALIFORNIA 94015-1895

(650) 991-8127

Regular Meeting - SANITATION DISTRICT

AGENDA

Monday, March 9, 2026 - 6:45 PM

There are two ways to submit public comments: (1) submit written comments by meeting day and (2) attend the meeting in person.

1. To submit written comments by meeting day, please email dwwr@dalycity.org and include "Public Comment" in the subject line. All written comments received by 4:00 pm on meeting day will be provided to the Board members prior to the meeting.

Please note: Any emailed comments received after 4:00 p.m. on the meeting date are not guaranteed to be received by the Board members prior to the meeting. Comments are not read aloud into the record.

2. To speak at the meeting in person, please complete a Speaker Card located at the entrance to the Council Chamber and submit it to a Staff Member as early in the meeting as possible.

Persons with disabilities who require auxiliary aids or services in attending or participating in this meeting should call the office of the Board Clerk at (650) 991-8200 as soon as possible.

AVAILABILITY OF PUBLIC RECORDS:

All public record to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City Clerk's Office, City Hall located at 333 90th Street, Daly City, CA during normal business hours, at the same time that the public records are distributed or made available to the legislative body.

CALL TO ORDER:

ROLL CALL:

APPROVAL OF AGENDA:

CONSENT AGENDA

All items listed on the Consent Agenda are considered to be routine and may be approved by one roll call vote of the Board of Directors. There shall be no separate discussion of the matters on the Consent Agenda unless requested by a member of the Board. If discussion is required, that item will be removed from the Consent Agenda and will be considered separately at the end of the Agenda.

Minutes:

1. Minutes of Regular Meeting of February 23, 2026

Action Items:

2. Sewer Service Charge Appeals - Fiscal Year 2025-26
3. Authorize a Professional Services Agreement with West Coast CM for the Vista Grande Drainage Basin Improvement Project

END OF CONSENT AGENDA

PUBLIC APPEARANCES/ORAL COMMUNICATIONS

Speakers are limited to two minutes unless modified by the Chair. The District cannot take action on any matter raised under this item.

NEW BUSINESS

REPORTS:

4. Board of Directors
5. Staff

ADJOURNMENT:

REGULAR MEETING - BOARD OF DIRECTORS

MINUTES

February 23, 2026

The Board of Directors of the North San Mateo County Sanitation District convened in a Regular Meeting on February 23, 2026, in the City Council Chamber, City Hall, 333 - 90th Street, Daly City, California.

The meeting was called to order by Chair Glenn Sylvester at 7:13 p.m.

ROLL CALL:

Present: Daus-Magbual, DiGiovanni, Manalo, Proaño, Sylvester,

Absent: None

Staff Present: General Manager Thomas J. Piccolotti, District Counsel Rose Zimmerman, Assistant City Manager/Acting Director of Finance and Administrative Services Tim Nevin, Director of Water and Wastewater Resources Joshua Cosgrove, Senior Management Analyst Anthony Tofiga, Collection System Manager Louis Langi, Assistant to the City Manager Leilani Ramos, Office Assistant III Erika Luna, and Office Assistant III Ester Cabral as Recording Secretary.

APPROVAL OF AGENDA:

Motion was made, seconded (DiGiovanni/Proaño) and unanimously approved.

CONSENT AGENDA:

1. **Minutes of Regular Meeting of February 9, 2026**
2. **Rejection of Bids for the Evergreen/Winchester/Templeton Sewer Replacement Project**

Motion was made, seconded (Daus-Magbual/Manalo), and unanimously carried to adopt the Consent Agenda.

NEW BUSINESS:

3. **Resolution Authorizing a WIFIA Loan Agreement with the Daly City Joint Powers Financing Authority, the City of Daly City and the United States Environmental Protection Agency and a Financing Agreement (WIFIA Loan Agreement) with the Daly City Joint Powers Financing Authority in Connection with the Financing of the Vista Grande Drainage Basin Improvement Project and Authorizing the City Manager (or District Manager), or Designee, to Execute and Deliver Such Agreements and Related Documents and Approving a Pledge of Revenues for Repayment of Funding, and Approving Related Agreements and Actions**

Director of Water and Wastewater Resources Joshua Cosgrove updated the Board about the Vista Grande Drainage Improvement Project. Staff advertised the construction bid in December 2025 and received three bids on February 6, 2026. Bids are currently being reviewed, and the recommended bid will be presented in the March 9th City Council meeting for approval. It is expected that after a Notice to Proceed is issued in March, the Contractor will be mobilized in May, and construction will begin in June.

The funding sources to finance the project were reviewed which include contributions from project partners, grants from state and federal agencies and loans from state and federal agencies and potentially public offerings of debt.

Part of this Finance Plan is a WIFIA loan from the US Environmental Protection Agency's WIFIA program. The benefits of such a loan are lower interest rate than public or market offering, longer payment terms and the possibility of deferring payments up to five years after project completion. It was noted that obtaining this loan required the City to maintain a strong credit rating, and it was reported that the City received a Standard & Poor's AA rating.

Staff recommended the following:

- Joint Powers Financing Authority: Board of Directors adopt a resolution authorizing a WIFIA Loan Agreement with the City, the Sanitation District, and the United States Environmental Protection Agency to finance the Project. \$34,000,000 WIFIA Loan is payable from payments made by City (49.23%) and Sanitation District (50.77%) pursuant to Financing Agreements
- City of Daly City: City Council adopt a resolution authorizing the WIFIA Loan Agreement and a related Financing Agreement. City pays 49.23% of Loan payments from Water Enterprise net revenues.
- Sanitation District: Board of Directors adopt a resolution authorizing the WIFIA Loan Agreement and a related Financing Agreement. District pays 50.77% of Loan payments from Sewer Enterprise net revenues.

Motion was made, seconded (Manalo/DiGiovanni) and unanimously carried on a roll call vote to adopt Resolution 26-SD-04, "Authorizing a WIFIA Loan Agreement with the Daly City Joint Powers Financing Authority, the City of Daly City and the United States Environmental Protection Agency and a Financing Agreement (WIFIA Loan Agreement) with the Daly City Joint Powers Financing Authority in Connection with the Financing of the Vista Grande Drainage Basin Improvement Project and Authorizing the City Manager (or District Manager), or Designee, to Execute and Deliver Such Agreements and Related Documents and Approving a Pledge of Revenues for Repayment of Funding, and Approving Related Agreements and Actions"

REPORTS:

1. **Board of Directors**

None.

2. **Staff**

None.

ADJOURNMENT:

At 7:38 p.m., call of adjournment of Regular Meeting by Chair Glenn Sylvester.



North San Mateo County Sanitation District

a subsidiary of the City of Daly City

Meeting Date: March 9, 2026

Subject: SEWER SERVICE CHARGE APPEALS - FISCAL YEAR 2025-26

Recommended Action

Based on staff review, I recommend that the sewer service charge be revised and based on annual water consumption or average yearly consumption excluding the base period.

Daly City Water

Chan
APN# 091-782-690

Lardizabal
APN# 004-122-300

Manalo
APN# 004-182-250

Staff is available to provide any additional information desired by the Chair or Board Members.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tim Nevin".

Tim Nevin
Director of Finance and Administrative Services
City of Daly City

Attachment: Sewer Service Charge Appeals

cc: District General Manager
City Attorney
Department of Water and Wastewater Resources

NORTH SAN MATEO COUNTY SANITATION DISTRICT
SEWER SERVICE CHARGE APPEAL
BOARD MEETING DATE

PARCEL NO. 091-782-690 2025-26
CUSTOMER NAME Chan
SERVICE ADDRESS 96 Brighton Ct, Daly City CA 94015

CREDIT BASED ON ACTUAL ANNUAL USAGE

WATER USAGE:

		Base Period Usage	39
		Actual Usage	39
		2 MONTHS PRIOR	39
2 MONTHS AFTER	19	4 MONTHS PRIOR	33
4 MONTHS AFTER	8	6 MONTHS PRIOR	18
		8 MONTHS PRIOR	8
		10 MONTHS PRIOR	10
		ACTUAL ANNUAL USAGE	147
		BASE PERIOD ANNUALIZED	234
		ANNUAL CREDIT IN UNITS (MUST BE OVER 15 UNITS)	87
		PERCENTAGE CHANGE (MUST BE OVER 10%)	59%
		ANNUAL CREDIT IN DOLLARS	\$931.77

(N.S.M.C.S.D. \$10.71 per unit)

REASON FOR APPEAL

Found toilet leaks that started before and during the base period. Once the customer was aware, repairs were completed. Usage began to decrease afterwards.

STAFF RECOMMENDATION TO BOARD

Grant Adjustment - Based on actual annual usage

NORTH SAN MATEO COUNTY SANITATION DISTRICT
SEWER SERVICE CHARGE APPEAL
BOARD MEETING DATE

PARCEL NO. 004-182-250 2025-26
CUSTOMER NAME Manalo
SERVICE ADDRESS 384 Winchester St., Daly City CA 94014

CREDIT BASED ON ACTUAL ANNUAL USAGE

WATER USAGE:

		Base Period Usage	26
		Actual Usage	26
		2 MONTHS PRIOR	25
2 MONTHS AFTER	27	4 MONTHS PRIOR	22
4 MONTHS AFTER	29	6 MONTHS PRIOR	12
		8 MONTHS PRIOR	11
		10 MONTHS PRIOR	10
		ACTUAL ANNUAL USAGE	106
		BASE PERIOD ANNUALIZED	156
		ANNUAL CREDIT IN UNITS (MUST BE OVER 15 UNITS)	50
		PERCENTAGE CHANGE (MUST BE OVER 10%)	47%
		ANNUAL CREDIT IN DOLLARS	\$535.50

(N.S.M.C.S.D. \$10.71 per unit)

REASON FOR APPEAL

There was a leak that started before the base period. Once repairs were completed, usage began to decrease.

STAFF RECOMMENDATION TO BOARD

Grant Adjustment - Based on actual annual usage

NORTH SAN MATEO COUNTY SANITATION DISTRICT
SEWER SERVICE CHARGE APPEAL
BOARD MEETING

PARCEL NO. 004-122-300 2025-26
CUSTOMER NAME Lardizabal
SERVICE ADDRESS 369 Peoria St, Daly City CA 94014

CREDIT BASED ON ACTUAL ANNUAL USAGE

WATER USAGE:

		Base Period Usage	184
		Actual Usage	184
		2 MONTHS PRIOR	179
2 MONTHS AFTER	231	4 MONTHS PRIOR	106
4 MONTHS AFTER	81	6 MONTHS PRIOR	94
		8 MONTHS PRIOR	71
		10 MONTHS PRIOR	71
		ACTUAL ANNUAL USAGE	705
		BASE PERIOD ANNUALIZED	1104
		ANNUAL CREDIT IN UNITS (MUST BE OVER 15 UNITS)	399
		PERCENTAGE CHANGE (MUST BE OVER 10%)	57%
		ANNUAL CREDIT IN DOLLARS	\$4,273.29

(N.S.M.C.S.D. \$10.71 per unit)

REASON FOR APPEAL

Toilet leaks started before the base period and continued through early summer. Owners repaired toilets in 4 apartment units within the complex. Wasn't aware that small leaks could cause the increased usage, assumed it was tenants usage. Usage began to decrease after repairs were completed.

STAFF RECOMMENDATION TO BOARD

Grant Adjustment - Based on actual annual usage



North San Mateo County Sanitation District

a subsidiary of the City of Daly City

Meeting Date: March 9, 2026

Subject: Authorize a Professional Services Agreement with West Coast CM for the Vista Grande Drainage Basin Improvement Project

Recommended Action

Authorize the execution of a Professional Services Agreement with West Coast CM in the amount of \$240,000 for consulting services on the Vista Grande Drainage Basin Improvement Project.

Background

West Coast CM has over 45 years of experience in the development and construction industry with an unparalleled track record of delivering complex projects on time and within budget. This Agreement will assist District staff in the bid review phase, contract award support, construction oversight, and project closeout & completion.

Discussion

The Vista Grande Drainage Basin Improvement Project (Project) is scheduled to commence construction in May. West Coast CM will support the existing project team – including the design and construction management services provided by Delve Underground and Brown & Caldwell – while providing independent oversight, cost control, and strategic guidance on behalf of the District and City.

Fiscal Impact

Sufficient funds are available in the Sanitation Fund 87 fund balance for this action.

Summary/Conclusion

Staff recommends the Board of Directors authorize execution of this Professional Services Agreement with West Coast CM to provide consulting services for the Vista Grande Drainage Basin Improvement Project.

Staff is available to provide any additional information desired by the Chair or Members of the Board of Directors.

Respectfully submitted,

A handwritten signature in blue ink that reads "Joshua Cosgrove".

Joshua Cosgrove
Director of Water and Wastewater Resources

Attachments:

- 1) Scope of Work
- 2) Draft Agreement

Scope of Services

Vista Grande Improvements Project

City of Daly City | Department of Water and Wastewater Resources

February 2026

West Coast CM is pleased to present this Scope of Services for the Vista Grande Improvements Project. Based on our consultation with the City of Daly City and our understanding of the project requirements, we have tailored our engagement to complement the existing project team — including the design and construction management services being provided by Delve Underground and Brown and Caldwell — while providing independent oversight, cost control, and strategic guidance on behalf of the City.

Larry Pace, Managing Principal of West Coast CM, will serve as the City's primary point of contact and lead Construction Manager for this engagement. With 45+ years of experience delivering complex infrastructure and construction projects across the Bay Area — including direct experience at Lake Merced Golf Club, Diablo Canyon Nuclear Power Plant, and the HOPE SF Potrero infrastructure program — Larry brings deep familiarity with multi-agency coordination, municipal processes, and the type of complex underground utility work central to this project.

Phase 1: Bid Review & Contract Award Support

With the contractor award anticipated for March 9, 2026, West Coast CM will immediately begin a thorough review of the Shimmick bid package and supporting contract documents to ensure the City enters into the construction contract with full visibility into scope coverage, risk areas, and budget positioning.

- Deep-dive review of the Shimmick bid to evaluate scope coverage, exclusions, inclusions, and overall completeness
- Peer review of design documents including all drawings and specifications prepared by Delve Underground and Brown and Caldwell
- Review of design discipline contracts and contract administration (CA) provisions for course of construction
- Evaluation of the Owner-GC contract terms, liquidated damages provisions, and risk allocation
- Assessment of project contingency requirements and identification of potential unforeseen conditions
- Review of all permit status and agency approvals to confirm readiness for construction commencement

Phase 2: Construction Oversight & Owner Representation

Throughout the estimated 30-month construction duration, West Coast CM will provide independent oversight and owner representation services on behalf of the City. Our scope is designed to work alongside the existing project management team while ensuring the City maintains independent visibility into project performance, budget, and quality.

- Peer review all submittals, RFIs, ASIs, CCDs, and revisions to the contract documents
- Evaluate all PCORs, CORs, and change orders for cost savings, scope reduction credits, and directional recommendation to the City prior to execution
- Scrutinize monthly payment applications from the GC for accuracy, reflection of actual work completed, and compliance with insurance and licensing requirements
- Monitor conditional and unconditional lien release compliance on all monthly pay applications
- Provide periodic on-site review of site conditions, construction progress, and quality control
- Attend OAC meetings, project coordination meetings, and other on-site or virtual meetings as necessary

- Manage multi-agency coordination including City of San Francisco, PG&E, and other utility and regulatory agencies
- Coordination with City staff regarding the Olympic Club easement status and PG&E gas line resolution
- Monitor the GC's construction schedule performance and evaluate critical path activities against project milestones, including weather-dependent moratoriums and Olympic Club scheduling constraints
- Oversee insurance compliance for all contractor and subcontractor teams throughout course of construction
- Review testing and inspection reports and coordinate with design and contractor teams to evaluate and mitigate any impacts
- Provide detailed monthly executive summaries to City leadership overviewing project status, budget tracking, schedule performance, and any emerging risks or issues

Phase 3: Project Closeout & Completion

- Secure GC and subcontractor close-out documents including warranties, as-built drawings, and owner manuals
- Coordinate with City agencies and inspectors to obtain all required certificates of completion and final approvals
- Ensure all permits are properly closed and final sign-offs are secured
- Peer review final contract documents and final invoicing from GC and all consultants
- Oversee detailed punch list walks and final completion verification
- Verify final unconditional lien releases are obtained and all closeout documents are complete prior to issuance of final payment

Compensation

West Coast CM proposes a flat monthly fee of **\$20,000 per month** for the services described herein, billed on the first of each month for the preceding month's services. This fee covers all of West Coast CM's direct and indirect costs associated with providing the scope of services outlined above. All invoices shall be paid on a Net 15 day basis. A one-month retainer of \$20,000 shall be funded upon execution of this agreement, with the balance applied to the final month's billing.

The initial engagement will commence immediately upon execution of the City's Professional Services Agreement and will continue through project completion. Should the scope of services require material expansion beyond what is described herein, West Coast CM will work with the City to agree upon an adjusted fee commensurate with the additional responsibilities.

General Terms

This scope of services will be governed by the City of Daly City's standard Professional Services Agreement. Either party may terminate this agreement with thirty (30) days' written notice. Upon termination, West Coast CM shall be compensated for all services rendered through the effective date of termination.

West Coast CM will comply with all insurance requirements as specified in the City's agreement, including professional liability, commercial general liability, and workers' compensation coverage. Certificates of insurance will be provided prior to commencement of services.

Larry Pace

Managing Principal | West Coast CM
larry@westcoastcm.com

**AGREEMENT FOR SERVICES
BETWEEN THE CITY OF DALY CITY
AND
WEST COAST CM LLC**

THIS AGREEMENT, made and entered into at Daly City, California, this 4th day of March, 2026 by and between the CITY OF DALY CITY, a Municipal Corporation, hereinafter referred to as "CITY", and West Coast CM LLC, a Delaware Corporation, licensed to do business in California, hereinafter referred to as "FIRST PARTY."

WITNESSETH:

WHEREAS, CITY desires to retain FIRST PARTY to provide certain professional services for CITY in connection with that certain project called:

Vista Grande Drainage Basin Improvement Project
(HEREINAFTER REFERRED TO AS "PROJECT")

WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:

I. SCOPE OF WORK

In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit A.

II. SCHEDULE FOR WORK

FIRST PARTY's proposed schedule for the various services required pursuant to this contract will be as set forth in Exhibit B. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit B. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other's employees and agents.

FIRST PARTY shall commence work immediately upon receipt of a "Notice to Proceed" from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the Agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY's activities required under this Agreement. FIRST PARTY shall be entitled to keep one copy of all project related files, records and materials for their files.

III. COMPENSATION AND PAYMENT

- A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed the amount as detailed in Exhibit C. This compensation shall be based on the rates attached in Exhibit C. Fixed hourly rates shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY.

- B. FIRST PARTY's fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.
- C. Payments shall be monthly for the invoice amount, or such other amount as approved by CITY. As each payment is due, a statement describing the services performed shall be submitted to CITY by the FIRST PARTY. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount, or such other amount as approved by CITY, less retention. The retention will be zero (0%) of each payment, and final payment. Payment of the retention will be made to FIRST PARTY by CITY thirty-five (35) calendar days after completion and acceptance of all work required under this Agreement.
- D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.

IV. EQUAL EMPLOYMENT OPPORTUNITY

- A. FIRST PARTY, with regard to the work performed by it under this Agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap or age in the retention of subconsultants, including procurement of materials and leases of equipment.
- B. FIRST PARTY shall take affirmative action to insure that applicants for employment, and employees, are treated during employment, without regard to their race, color, religion, sex, national origin, or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, or handicap.
- E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.
- F. FIRST PARTY shall incorporate the foregoing requirements of this section in all subconsultants agreement hereunder.

V. PROSECUTION OF WORK

FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY.

VI. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST

- A. FIRST PARTY shall not assign this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.
- B. In the event FIRST PARTY sells and/or transfers to another entity more than 30% of the stock ownership or ownership in FIRST PARTY from the date this Agreement is executed, then CITY shall be notified prior to the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this Agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this Agreement.

VII. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this Agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY's services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

VIII. FIRST PARTY QUALIFICATIONS

It is expressly understood that FIRST PARTY is skilled in the professional calling necessary to perform the work agreed to be done by it under this Agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in accordance with generally accepted engineering standards in effect at the time services are rendered. The acceptance of FIRST PARTY's work by CITY does not operate as a release of FIRST PARTY from said understanding.

IX. NOTICES

All notices hereby required under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notices required to be given to CITY shall be addressed as follows:

Joshua Cosgrove, Director
Department of Water and Wastewater Resources
153 Lake Merced Boulevard
Daly City, California 94015

Notices required to be given to FIRST PARTY shall be addressed as follows:

Larry Pace
Managing Partner
West Coast CM
29 Orinda Way, STE 2152
Orinda, CA 94563

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.

PROFESSIONAL LIABILITY/GENERAL LIABILITY & INDEMNIFICATION

A. Insurance. On or before beginning any of the service or work called for by any term of this Agreement, FIRST PARTY, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the City Attorney's Office the insurance specified in subsections (1) through (3) below with insurers and under forms of insurance satisfactory in all respects to the CITY. FIRST PARTY shall not allow any subcontractor, professional or otherwise, to commence work on any subcontract until all insurance required of the FIRST PARTY has also been obtained for the subcontractor.

- (1) Workers' Compensation. Statutory Workers' Compensation Insurance and Employer's Liability Insurance with limits of not less than one million dollars (\$1,000,000) per employee, per accident, per policy term for any and all persons employed directly or indirectly by FIRST PARTY. In the alternative, FIRST PARTY may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. In such case, excess Workers' Compensation Insurance with limits of not less than five million dollar (\$5,000,000) shall be maintained. The insurer, if insurance is provided, and the FIRST PARTY, if a program of self-insurance is provided, shall waive all rights of subrogation against the CITY for loss arising from worker injuries sustained under this agreement.
- (2) Commercial General and Automobile Liability. FIRST PARTY, at FIRST PARTY'S own cost and expense, shall maintain Commercial General Liability Insurance for the period covered by this agreement in an amount not less than one million dollars (\$1,000,000) combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under the agreement or the general aggregate limit shall be at least two million dollars (\$2,000,000). Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this agreement, including the use of owned and non-owned automobiles.

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- (a) The City of Daly City, its subsidiary districts, the agency, its officers, employees, agents and authorized volunteers are to be covered as additional insureds as respects each of the following: liability arising out of activities performed by or on behalf of FIRST PARTY; products and completed operations of FIRST PARTY; premises owned, occupied or used by FIRST PARTY; or automobiles owned, leased, hired, or borrowed by FIRST PARTY. The coverage shall contain no special limitations on the scope of protection afforded to Daly City, its subsidiary districts, the Agency, its officers, employees, agents, or volunteers.
 - (a) The insurance policy form shall provide coverage on an occurrence basis, and not on the basis of claims made.
 - (b) The insurance must cover complete contractual liability. This may be provided by amending the definition of "incidental contract" to include any written agreement.
 - (c) Any explosion, collapse, and underground property damage exclusion must be deleted.
 - (d) An endorsement must state that coverage is primary insurance and that no other insurance or self-insured retention carried by the CITY will be called upon to contribute to a loss under the coverage.
 - (e) The policy must contain a cross liability or severability of interests clause.
 - (f) The policies must contain a cross liability or severability of interest clause.
 - (g) Any failure of First Party to comply with reporting provisions of the policy shall not affect coverage provided to City of Daly City and its subsidiary districts, the Agency, its officers, employees, agents, and volunteers.
 - (h) Broad form property damage liability must be afforded. A deductible that does not exceed \$5,000 may be provided.
 - (i) Insurance is to be placed with California-admitted insurers, and carrier(s) must be rated "A" or above in the Best's Rating Guide. The CITY reserves the right to accept or deny use of any particular carrier.
 - (j) Notice of cancellation must be received by the **City Engineer** at least thirty (30) days prior to such change (ten (10) days prior to cancellation due to non-payment of premium).
- (3) Professional Liability. FIRST PARTY, at FIRST PARTY's own cost and expense, shall maintain for the period covered by this agreement professional liability insurance for licensed professionals performing work pursuant to this agreement in an amount not less than one million dollars (\$1,000,000) per claim and in the aggregate covering the licensed professionals' negligent errors and omissions, as follows:

- (a) Any deductible shall not exceed \$5,000 (or \$250,000) per claim.
- (b) Notice of cancellation must be received by the City Engineer at least thirty (30) days prior to such change (ten (10) days prior to cancellation due to non-payment of premium).
- (c) The policy must contain a cross liability or severability of interest clause.
- (d) The following provisions shall apply if the professional liability coverages are written on a claims made form:
 - (1.) The retroactive date of the policy must be shown and must be before the date for the commencement of work for the City of Daly City.
 - (2.) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the agreement or the work.
 - (3.) If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date as provided under (3)(d)(1.) above, FIRST PARTY must provide extended reporting coverage on the expiring policy for a minimum of five (5) years after completion of the agreement or the work.
 - (4.) A copy of the claim reporting requirements, including any extended reporting period provisions, must be submitted to the CITY prior to the commencement of any work under this agreement.
- (4) Notice of Reduction in Coverage. In the event that any coverage required under X. A. (1), (2), (3), of the agreement is reduced, limited, or materially affected in any other manner, at any time during the period that insurance coverage is required under this agreement, FIRST PARTY shall provide written notice to CITY at FIRST PARTY's earliest possible opportunity and in no case later than five days after FIRST PARTY is notified of the change in coverage.
- (5) Verification of Insurance. FIRST PARTY must submit acceptable proof of insurance, along with all endorsements that implement the insurance coverage required by the CITY. Proof of insurance may be provided by an accurate Certificate of Insurance that identifies all insurance coverage actually in force (although it may exceed the amounts or coverages required by the CITY). The original Certificate of Insurance, and signed endorsements need to be provided to the CITY prior to any work being performed under the contract.
- (6) Any exceptions to the above requirements, limits or conditions are to be made upon the sole and exclusive discretion of the City of Daly City, by and through the City's Risk Manager.

- B. Indemnification - Hold Harmless. It is understood and agreed that FIRST PARTY has the professional skills, experience and/or knowledge necessary to perform the work agreed to be performed under this agreement, and CITY relies upon the professional skills of FIRST PARTY to do and perform FIRST PARTY's work in a skillful and professional manner, and FIRST PARTY thus agrees to so perform the work.

Acceptance by CITY of the work performed under this Agreement does not operate as a release of said FIRST PARTY from such professional responsibility for the work performed.

FIRST PARTY shall indemnify and hold harmless the CITY, its subsidiary Citys, their officers, agents, and employees from all claims, suits, or actions of every kind and description to the extent caused by FIRST PARTY's negligence, recklessness, or willful misconduct.

The duty of FIRST PARTY to indemnify and hold harmless as set forth above, shall include the duty to defend as set forth in Section 2778 of the California Civil Code, provided, however, that nothing herein shall be construed to require the FIRST PARTY to indemnify the CITY, its subsidiary Citys, its officers, agents or employees against any responsibility for liability in contravention of Section 2782 of the California Civil Code. The duty to defend shall include any costs and expenses for attorney's fees and all consequential damages or costs from claims or litigation. Notwithstanding the foregoing, for any claim alleging FIRST PARTY's negligent performance of professional services, FIRST PARTY's obligations regarding CITY's defense under this paragraph include only the reimbursement of CITY's reasonable defense costs incurred to the extent of FIRST PARTY's negligence as expressly determined by a final judgment, arbitration, award, order, settlement, or other final resolution. FIRST PARTY shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic or incidental damages to the CITY or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, FIRST PARTY shall not be responsible for acts and decisions of third parties, including governmental agencies, other than FIRST PARTY's subconsultants, that impact project completion and/or success.

FIRST PARTY expressly and specifically agree to waive any and all subrogation rights on general and automobile liability policies it may have against the CITY, its subsidiary Citys, officers or employees. Indemnification and waiver of subrogation contained in this section shall remain operative and in full force and effect regardless of any termination of this Agreement.

X. RESPONSIBILITY AND LIABILITY FOR SUBCONSULTANTS & SUBCONTRACTORS

- A. Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its subconsultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its subconsultants and/or subcontractors.
- B. The FIRST PARTY has no control over the cost of labor, materials, equipment or services furnished by others, or over Contractor's methods of determining prices, or

other competitive bidding or market conditions, practices or bidding strategies. Cost estimates are based on FIRST PARTY's opinion based on experience and judgment. FIRST PARTY cannot and does not guarantee that proposals, bids or actual Project construction costs will not vary from cost estimates prepared by FIRST PARTY.

- C. FIRST PARTY shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by contractors or the safety precautions and programs incident to the work of contractors and will not be responsible for Contractor's failure to carry out work in accordance with the Contract Documents.

XI. HAZARDOUS MATERIALS OR ASBESTOS DISCOVERY

Hazardous materials or asbestos may exist at a site where there is no reason to believe they could or should be present. The FIRST PARTY and CITY agree that the discovery of unanticipated hazardous materials or asbestos constitutes a changed condition mandating a renegotiation of FIRST PARTY's services.

XII. OWNERSHIP OF WORK PRODUCT

Work products of FIRST PARTY for this project, which are delivered under this Agreement, or which are developed, produced and paid for under this Agreement, shall become the property of CITY. Any reuse of completed documents or use of partially completed documents without written verification or concurrence by FIRST PARTY for the specific purpose intended will at CITY's sole risk and without liability or legal exposure to FIRST PARTY.

XIII. REPRESENTATION OF WORK

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit A or as otherwise specified in Exhibit A.

XIV. CITY PROVIDED DATA

The CITY shall furnish the FIRST PARTY available studies, reports and other data pertinent to FIRST PARTY's services and FIRST PARTY shall be entitled to use and rely upon all such information provided by CITY or others in performing FIRST PARTY's services under this Agreement.

XV. ACCESS

CITY shall arrange for access to and make all provisions for FIRST PARTY to enter upon public and private property as required for FIRST PARTY to perform services hereunder.

XVI. SERVICES DURING CONSTRUCTION

If the project involves construction of any kind, the parties agree that CITY and FIRST PARTY shall be indemnified to the fullest extent permitted by law for all claims, damages, losses and expense including attorney's fees arising out of or resulting from the construction contractor's performance of work including injury to any worker on the job site except for the sole negligence of CITY or FIRST PARTY. Both CITY and FIRST PARTY shall be named as additional primary insured(s) by construction contractor's General Liability and Builders All Risk insurance

policies without offset and all Construction Documents and insurance certificates shall include wording acceptable to the parties herein with reference to such provisions.

XVII. TERMINATION OF AGREEMENT

- A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this contract in whole or in part at any time, either for CITY's convenience or because of the failure of FIRST PARTY to fulfill its contractual obligations or because of FIRST PARTY's change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:
 - (1) Immediately discontinue all services affected (unless the notice directs otherwise); and
 - (2) Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this Agreement, whether completed or in process.
- B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- C. If, after notice of termination for failure to fulfill Agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been affected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this section.
- D. The rights and remedies of the CITY provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

XVIII. INSPECTION OF WORK

It is FIRST PARTY's obligation to make the work product available for CITY's inspections and periodic reviews upon request by CITY.

XIX. BREACH OF AGREEMENT

- A. This Agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this Agreement, shall constitute a breach of this Agreement and may be cause for termination at the election of the CITY.
- B. The CITY reserves the right to waive any and all breaches of this Agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this Agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of Agreement.

XX. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

XXI. THIRD PARTIES

The services to be performed by FIRST PARTY are intended solely for the benefit of the CITY. No person or entity not a signatory to this Agreement shall be entitled to rely on the FIRST PARTY's performance of its services hereunder, and no right to assert a claim against the FIRST PARTY by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of the FIRST PARTY's services hereunder.

XXII. CAPTIONS

The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this Agreement.

XXIII. LITIGATION OR ARBITRATION

In the event that suit or arbitration is brought to enforce the terms of this contract, the prevailing party shall be entitled to litigation costs and reasonable attorneys' fees.

XXIV. FIRST PARTY's OPINION OF COSTS

CITY acknowledges that construction cost estimates, are subject to many influences including, but not limited to, price of labor and materials, unknown or latent conditions of existing equipment or structures, and time or quality of performance by third parties. CITY acknowledges that such influences may not be precisely forecasted and are beyond the control of FIRST PARTY and that actual costs incurred may vary substantially from the estimates prepared by FIRST PARTY.

XXV. ENTIRE AGREEMENT

This document constitutes the sole Agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document's date. Any prior Agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this Agreement must be in writing and signed by the appropriate representatives of the parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF DALY CITY,
a Municipal Corporation

By _____

Title City Manager
"CITY"

West Coast CM, LLC
a LLC Corporation,
licensed to do business in California

By _____

Title _____
"FIRST PARTY"

APPROVED AS TO FORM:

Rose Zimmerman
City Attorney