

**CITY OF SOLVANG  
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of \_\_\_\_\_, 2010, is by and between the CITY OF SOLVANG, hereinafter referred to as the "CITY", and SANTA YNEZ VALLEY HOTEL ASSN., hereinafter referred to as the "CONTRACTOR".

**WITNESSETH**

WHEREAS, pursuant to Government Code Section 31000, CITY may retain independent contractors to perform special services to or for CITY or any department thereof; and,

WHEREAS, CONTRACTOR is designated in the Resolution ("Resolution") creating the Santa Ynez Valley Tourism Business Improvement District ("District") as adopted pursuant to the Property and Business Improvement District Law of 1994, being section 36650 et seq. of the California Streets and Highways Code ("BID Law") as the contractor to be given responsibility for carrying out the services, activities, and programs ( "Services") of the District to promote tourism which will benefit the District funded by assessments from within the District and by other revenue sources; and

WHEREAS, CONTRACTOR is willing to provide such services on the terms and conditions set forth in this AGREEMENT and is willing to provide same to CITY.

NOW, THEREFORE it is agreed that CITY does hereby retain CONTRACTOR to provide the services described in Exhibit "A", and CONTRACTOR accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit B	Payment Terms
Exhibit C	Insurance Requirements

The term of this Agreement shall be from July 1, 2010 through June 30, 2015.

CONTRACTOR shall receive all revenues receive by CITY from assessments made pursuant to the Resolution, less reimbursements and fees authorized by the Resolution.

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

**CITY OF SOLVANG**

**CONTRACTOR/COMPANY NAME**

By \_\_\_\_\_  
Mayor  
City Council

By \_\_\_\_\_  
Bill Phelps, President  
SANTA YNEZ VALLEY HOTEL ASSN.

**ATTEST:**  
City Clerk of the Council

**NAME AND ADDRESS OF CONTRACTOR:**

By \_\_\_\_\_  
Mary Ellen Rio

SANTA YNEZ VALLEY HOTEL ASSN.  
c/o Hadsten House  
1450 Mission Drive  
Solvang, CA 93463

**CITY ATTORNEY REVIEW:**  
APPROVED AS TO FORM

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

By \_\_\_\_\_  
Roy Hanley

---

---

---

## **GENERAL TERMS AND CONDITIONS**

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that CONTRACTOR is an Independent Contractor. CONTRACTOR is not the agent or employee of the CITY in any capacity whatsoever, and CITY shall not be liable for any acts or omissions by CONTRACTOR nor for any obligations or liabilities incurred by CONTRACTOR.

CONTRACTOR shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

CONTRACTOR shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold CITY harmless from any and all liability which CITY may incur because of CONTRACTOR's failure to pay such amounts.

In carrying out the work contemplated herein, CONTRACTOR shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as Independent Contractors and shall not be treated or considered in any way as officers, agents and/or employees of CITY.

CONTRACTOR does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with all applicable federal, state, county and city laws, Resolutions, regulations, titles, departmental procedures and currently approved methods and practices in his/her field and that the sole interest of CITY is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the CITY agency concerned.

Notwithstanding the foregoing, if the CITY determines that pursuant to state and federal law CONTRACTOR is an employee for purposes of income tax withholding, CITY may upon two (2) week's written notice to CONTRACTOR, withhold from payments to CONTRACTOR hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR shall hold harmless, defend and indemnify the CITY OF SOLVANG, its City Council, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss there from, or to any violation of federal, state or municipal law or regulation, and (2) is caused in whole or in part by any negligent act, omission or willful misconduct of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The CITY may participate in the defense of any such claim without relieving CONTRACTOR of any obligation hereunder.
3. **INSURANCE AND BOND:** CONTRACTOR shall at all times during the term of the Agreement with the CITY maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **WORKERS' COMPENSATION:** CONTRACTOR shall provide Workers' Compensation insurance, as applicable, at CONTRACTOR's own cost and expense and further, neither the CONTRACTOR nor its carrier shall be entitled to recover from CITY any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
5. **CONFORMITY WITH LAW AND SAFETY:**
  - a. In performing services under this Agreement, CONTRACTOR shall observe and comply with all applicable laws, Resolutions, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. CONTRACTOR shall indemnify and hold CITY harmless from any and all liability, fines, penalties and consequences from any of CONTRACTOR's failures to comply with such laws, Resolutions, codes and regulations.
  - b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with CONTRACTOR's performance of this Agreement, CONTRACTOR shall immediately notify Solvang CITY Risk Manager's Office by telephone. CONTRACTOR shall promptly submit to CITY a written report, in such form as may be required by CITY of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of CONTRACTOR's

sub-contractor, if any; (3) name and address of CONTRACTOR's liability insurance carrier; and (4) a detailed description of the accident and whether any of CITY's equipment, tools, material, or staff were involved.

- c. CONTRACTOR further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the CITY the opportunity to review and inspect such evidence, including the scene of the accident.
6. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to CONTRACTOR as provided in Exhibit B hereto.
7. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the CONTRACTOR.
8. OWNERSHIP OF DOCUMENTS: CONTRACTOR hereby agrees to provide to a private, not-for-profit, successor and if there is none then assigns the CITY and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the CITY, the CONTRACTOR, the CONTRACTOR's subcontractors or third parties at the request of the CONTRACTOR (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

CONTRACTOR shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. CONTRACTOR agrees to take such further steps as may be reasonably requested by CITY to implement the aforesaid assignment. If for any reason said assignment is not effective, CONTRACTOR hereby grants the CITY and any assignee of the CITY an express royalty – free license to retain and use said Documents and Materials. The CITY's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not CONTRACTOR's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

CONTRACTOR shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the CONTRACTOR and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the CITY harmless from any claims for infringement of patent or copyright arising out of such selection.

The CITY's rights under this Paragraph 8 shall not extend to any computer software used to create such Documents and Materials.

9. CONFLICT OF INTEREST: The CONTRACTOR covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement.
10. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Facsimile transmission: When sent by facsimile to the facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that, (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To CITY: CITY OF SOLVANG  
1644 Oak Street  
Solvang, CA 93463

To CONTRACTOR: SANTA YNEZ VALLEY HOTEL ASSN.  
c/o Hadsten House  
1450 Mission Drive  
Solvang, CA 93463

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

11. **USE OF CITY PROPERTY:** CONTRACTOR shall not use CITY property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
12. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** CONTRACTOR certifies that it is in compliance with the Equal Employment Opportunity Requirement of Executive Order 11246, as amended by Executive Order 11375 and supplemented I 45CFR, Part 60, Title VII of the Civil Rights Act and any other federal or state laws pertaining to equal employment opportunity and that it shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, age, sex, national origin, ancestry, marital status, political affiliation or physical or mental condition, in matters pertaining to recruitment, hiring, training, upgrading, transfer, compensation or termination.
  - a. CONTRACTOR shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - b. CONTRACTOR shall, if requested to so do by the CITY, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - c. If requested to do so by the CITY, CONTRACTOR shall provide the CITY with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
  - d. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.
  - e. The CONTRACTOR shall include the provisions set forth in paragraphs a through e (above) in each of its subcontracts.
13. **DRUG-FREE WORKPLACE:** CONTRACTOR and CONTRACTOR's employees shall comply with the CITY's policy of maintaining a drug-free workplace. Neither CONTRACTOR nor CONTRACTOR's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S.

Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any CITY facility or work site. If CONTRACTOR or any employee of CONTRACTOR is convicted or pleads *nolo contendere* to a criminal drug statute violation occurring at a CITY facility or work site, the CONTRACTOR, within five days thereafter, shall notify the head of the CITY department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

14. **ENERGY CONSERVATION:** CONTRACTOR agrees to comply with the mandatory standards and policies relating to energy efficiency in the State of California Energy Conservation Plan, (Title 24, California Administrative Code).
15. **COMPLIANCE WITH LICENSING REQUIREMENTS:** CONTRACTOR shall comply with all necessary licensing requirements and shall obtain appropriate licenses and display the same in a location that is reasonably conspicuous, as well as file copies of same with the CITY Executive Office.
16. **AUDITS; ACCESS TO RECORDS:** The CONTRACTOR shall make available to the CITY, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the CITY, and shall furnish to the CITY, within sixty (60) days after examination, its authorized agents, officers or employees such other evidence or information as the CITY may require with regard to any such expenditure or disbursement charged by the CONTRACTOR.

The CONTRACTOR shall maintain full and adequate records in accordance with CITY requirements to show the actual costs incurred by the CONTRACTOR in the performance of this Agreement. If such books and records are not kept and maintained by CONTRACTOR within the CITY OF SOLVANG, California, CONTRACTOR shall, upon request of the CITY, make such books and records available to the CITY for inspection at a location within CITY or CONTRACTOR shall pay to the CITY the reasonable, and necessary costs incurred by the CITY in inspecting CONTRACTOR's books and records, including, but not limited to, travel, lodging and subsistence costs. CONTRACTOR shall provide such assistance as may be reasonably required in the course of such inspection. The CITY further reserves the right to examine and reexamine said books, records and data during the four (4) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the CITY, and the CONTRACTOR shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for four (4) years after the CITY makes the final or last payment or within four (4) years after any pending issues between the CITY and CONTRACTOR with respect to this Agreement are closed, whichever is later.

17. **DOCUMENTS AND MATERIALS:** CONTRACTOR shall maintain and make available to CITY for its inspection and use during the term of this Agreement, all



Documents and Materials, as defined in Paragraph 8 of this Agreement. CONTRACTOR's obligations under the preceding sentence shall continue for four (4) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by CITY), and CONTRACTOR shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for four (4) years following the CITY's last payment to CONTRACTOR under this Agreement.

18. TIME OF ESSENCE: Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
19. TERMINATION/DISESTABLISHMENT: The CITY has and reserves the right to suspend, terminate or abandon the execution of any work by the CONTRACTOR without cause at any time after the adoption of a resolution of intention to disestablish the District pursuant to BID Law by CITY and upon providing CONTRACTOR written notice or a copy of the adopted resolution of intention. In the event that the CITY should disestablish the District, the CONTRACTOR shall be entitled to retain District revenues only for paying the CONTRACTOR's current liabilities of the District. Pursuant to BID Law, CONTRACTOR shall refund to CITY any remaining District revenues or any revenues derived from the sale of assets acquired with District revenues to enable the distribution of the revenues back to the businesses who were levied the assessment. CONTRACTOR agrees that CITY has and reserves the right to deny the transfer of District revenues and/or suspend, terminate or abandon the execution of any work by the CONTRACTOR in accordance with paragraph 25 ASSURANCE OF PERFORMANCE of this agreement or misfeasance, nonfeasance, or gross malfeasance, or criminal conduct as determined by a court of competent jurisdiction. Any retention of District revenues by CONTRACTOR shall comply with BID Law.
20. CHOICE OF LAW: This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
21. ADVERTISING OR PUBLICITY: CONTRACTOR shall not use, reproduce or copy the seal of the CITY OF SOLVANG and shall not represent the CITY in an official capacity as spokesperson or officer or agent or use the name CITY OF SOLVANG, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of CITY Executive Office or the City Council in each instance unless set forth in this Agreement. Nothing in this section prohibits the CONTRACTOR from using the name Santa Ynez Valley Tourism Business Improvement District or CITY OF SOLVANG for regional identification for promotion and marketing of the District.

22. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between CITY and CONTRACTOR relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. This Agreement may not be modified except by a written document signed by both parties.
23. **HEADINGS:** Headings herein are for convenience of reference only and shall in no way affect interpretation of this Agreement.
24. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
25. **ASSURANCE OF PERFORMANCE:** If at any time the CITY has good objective cause to believe CONTRACTOR may not be adequately performing its obligations under this Agreement or that CONTRACTOR may fail to complete the Services as required by this Agreement, CITY may request from CONTRACTOR prompt written assurances of performance and a written plan acceptable to CITY, to correct the observed deficiencies in CONTRACTOR's performance. CONTRACTOR shall provide such written assurances and written plan within thirty (30) calendar days of its receipt of CITY's request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
26. **SUBCONTRACTING/ASSIGNMENT:** CONTRACTOR shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the CITY's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
  - b. CONTRACTOR may use subcontractors to provide any portions of the service identified in Exhibit A without prior written consent of the CITY.

- c. CONTRACTOR shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between CONTRACTOR and its subcontractors.
- 27. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 8), and Conflict of Interest (Paragraph 9), shall survive termination or expiration for two (2) years.
- 28. SEVERABILITY: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
- 29. PATENT AND COPYRIGHT INDEMNITY: CONTRACTOR represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("CONTRACTOR Products") provided to CITY under this Agreement infringe any patent, copyright or other proprietary right. CONTRACTOR shall defend, indemnify and hold harmless CITY of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any CONTRACTOR Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party.
  - a. CITY will: (1) notify CONTRACTOR promptly of such claim, suit or assertion; (2) permit CONTRACTOR to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable CONTRACTOR to do so. CONTRACTOR shall not agree without CITY's prior written consent, to any settlement, which would require CITY to pay money or perform some affirmative act in order to continue using the CONTRACTOR Products.
  - b. If CONTRACTOR is obligated to defend CITY pursuant to this Section 29 and fails to do so after reasonable notice from CITY, CITY may defend itself and/or settle such proceeding, and CONTRACTOR shall pay to CITY any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with CITY's defense and/or settlement of such proceeding.
  - c. In the case of any such claim of infringement, CONTRACTOR shall either, at its option, (1) procure for CITY the right to continue using the CONTRACTOR Products; or (2) replace or modify the CONTRACTOR Products so that that they become non-infringing, but equivalent in functionality and performance.
  - d. Notwithstanding this Section 29, CITY retains the right and ability to

defend itself, at its own expense, against any claims that CONTRACTOR Products infringe any patent, copyright, or other intellectual property right.

30. OTHER AGENCIES:

Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The CONTRACTOR is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the CONTRACTOR elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.

[END OF GENERAL TERMS AND CONDITIONS]

## **EXHIBIT A**

### **DEFINITION OF SERVICES**

CONTRACTOR shall provide the following services:

1. Contractor shall cooperate with CITY and CITY staff in the performance of all work hereunder. The Contract Administrator shall meet with the CITY Executive Office on a quarterly basis to review the services provided under this agreement. The meeting shall be organized by the CITY Executive Office.
2. Contractor will provide and fund projects, programs and activities that benefit lodging establishments within the District. This includes the promotion of Santa Ynez Valley as an overnight tourism destination, the branding of Santa Ynez Valley as a destination, the provision for direct visitor services, and securing the assistance of various partnerships in these endeavors. Assessment funds shall be used exclusively for the foregoing purpose.
3. Contractor will provide and fund such additional projects, programs and activities to promote tourism in the Santa Ynez Valley as may be made possible through other non-Assessment funding sources. These other funds must be accounted for separately from Assessment funds.
4. Contractor shall performance responsibilities under the Property and Business Improvement District Law of 1994 (the "Law") including but not limited to,
  - a. Preparation of the Annual Report required by the Law, which shall include any recommended changes to boundaries, the improvements and activities to be provided for that fiscal year, an estimate of cost for providing the improvements and activities, the method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his/her business for that fiscal year, the amount of any surplus or deficit revenues to be carried over from a previous fiscal year, and the amount of any contributions to be made from sources other than assessments.
  - b. Seeking and retaining subcontractor(s) to prepare the Annual Report.
  - c. Delivering the Annual Report at least one hundred and twenty (120) days preceding the fiscal year for which assessments are to be levied and collected to pay the costs of the improvements.
5. Contractor shall develop and maintain financial records related to receipt and/or expenditure of all funds received from CITY.

6. Contractor agrees to prepare a quarterly report of actual expenditures and program accomplishments for each calendar quarter and shall deliver the quarterly report to the CITY Chief Executive Officer within a reasonable amount of time.
7. In accordance with Paragraph 26 Contractor may retain subcontractors to deliver the services herein however Contractor shall remain fully responsible for compliance by its contractors with all the terms of this Agreement, regardless of the terms of any agreement between the Contractor and its subcontractor.

[END DEFINITION OF SERVICES]

## **EXHIBIT B**

### **PAYMENT TERMS**

1. CITY shall transfer to Contractor all collected assessments, less the administrative fee and enforcement costs, on a quarterly basis. Payments shall include a total balance of the BID Assessment account, less any administrative or enforcement fee pursuant to the Resolution.

[END OF PAYMENT TERMS]

## **EXHIBIT C**

### **INSURANCE REQUIREMENTS**

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve CONTRACTOR for liability in excess of such coverage, nor shall it preclude CITY from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law.

CONTRACTOR agrees to indemnify and hold harmless CITY, its elected or appointed officials, employees or volunteers against any claims, actions, or demands against them, or any of them, and against any damages, liabilities or expenses, including costs of defense and attorney's fees, for personal injury or death, or for the loss or damage to the property, or any or all of them, to the extent arising out of the negligent performance of this Agreement by CONTRACTOR.

CONTRACTOR affirms that s/he is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for the Workers' Compensation or to undertake self insurance in accordance with the provisions of the Code and CONTRACTOR further assures that s/he will comply with such provisions before commencing the performance of work under this Agreement. CONTRACTOR shall furnish to CITY certificate(s) of insurance evidencing Worker's Compensation Insurance coverage to cover its employees, and CONTRACTOR shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of CONTRACTOR'S and subcontractors' employees.

CONTRACTOR shall furnish to CITY certificates of insurance with Automobile Liability/General Liability Endorsements evidencing at a minimum the following:

- a. Combined single limit bodily injury liability and property damage liability - \$1,000,000 each occurrence.
- b. Vehicle / Bodily Injury combined single limit vehicle bodily injury and property damage liability - \$500,000 each occurrence.

[END OF INSURANCE REQUIREMENTS]