

## DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION  
BOARD REPORT NO. 1  
NOVEMBER 6, 2024

CD: 12

AUTHORITY TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE  
MOUNTAIN RECREATION AND CONSERVATION AUTHORITY REGARDING THE  
CABALLERO CREEK PARK PROJECT

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RECOMMENDATIONS

1. Approve and forward this report, with its transmittals, to the Mayor and City Council with the request to authorize the President or two members of the Board of Public Works (Board) and the Director and General Manager of Los Angeles Sanitation and Environment (LASAN) to execute the proposed Memorandum of Agreement (MOA) with the Mountain Recreation and Conservation Authority (MRCA) regarding the Caballero Creek Park Project (Project).
2. Upon the Mayor's and City Council's authorization, the President or two Commissioners of the Board and the General Manager of LASAN will execute the MOA.

TRANSMITTALS

1. Council File 18-0547
2. Proposed Memorandum of Agreement between LASAN and MRCA

BACKGROUND

The Caballero Creek Park Project will convert a 1.6-acre underutilized site into a multiple-benefit park, located at the convergence of the Los Angeles River and Caballero Creek, the only tributary stemming from the ecologically rich Santa Monica Mountains. LASAN recognizes the need to improve water quality in the Los Angeles region, provide resilient clean water and resultant supplies for recharging aquifers, reduce flooding impacts, protect compatible beneficial uses, and improve neighborhood quality of life. The Project helps with LASAN's goals of reducing urban runoff pollution, enhancing water resources through the collection and use of runoff for local non-potable uses, and improving the environment for the health of the City's respective citizens and visitors. The Project will also assist LASAN in its efforts to improve water quality and to comply with the Los Angeles Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit by reducing pollutant loads to the Los Angeles River and Caballero Creek, including critical pollutants such as bacteria, heavy metals, nutrients, and other toxic substances.

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The Project consists of constructing several Best Management Practices (BMPs) facilities and implementing BMPs aimed at treating stormwater runoff in Caballero Creek and the Los Angeles River. Proposed BMPs include a stormwater trash separator unit, a stormwater pump system, a media pond filter, ultra violet disinfection, a mixing tank, a bioswale, and a wetland. The Project will not only create native habitat for local wildlife and help to improve water quality within the LA River, but will also provide a new publicly accessible multiple-benefit park located in a disadvantaged community.

MRCA is delivering the Project in collaboration with LASAN and the Department of Recreation and Parks (RAP). The purpose of this MOA is to authorize MRCA to perform all activities related to the design, permitting, and construction of the Project, and allow LASAN to receive and distribute allocated Municipal Improvement Corporation of Los Angeles (MICLA) funding to MRCA through invoice review and approval.

In FY 2016-17, a total of \$750,000 in MICLA funding was allocated to the Project through the City's approved budget. On June 19, 2018, Council File 18-0547 was adopted authorizing the transfer of the funding from a MICLA Fund entitled "Caballero Creek Park" to a new account established within the Stormwater Pollution Abatement Fund entitled "Caballero Creek Park Stormwater Best Management Practices." This funding will be used for the completion and maintenance of the Project.

The City and MRCA, a governmental agency, have jointly developed this Project, and the parties now wish to enter into this Agreement to memorialize the cooperative arrangement between the City and MRCA for the use of MRCA's professional, scientific, expert, and technical services, including expertise implementing other multi-million-dollar park projects with benefits similar to this Project.

The estimated total cost of the Project is \$5,446,500, which includes an estimated construction cost of \$3,282,777. MRCA has been awarded additional funding for the Project from other funding sources, including \$2,000,000 of Proposition 1 funding from the Santa Monica Mountains Conservancy, \$500,000 from Santa Monica Mountains Conservancy, \$1,146,500 from the California Department of Natural Resources, \$300,000 of Prop A, \$250,000 of Prop 84, and \$500,000 from the Coastal Conservancy, among other sources, and it would not be reasonably practicable or in the City's interests to seek competitive proposals for the completion of this Project. The additional funding for the project is managed by MRCA.

The Project is currently in the construction phase and will be completed in June 2025.

Upon completion of the Project, LASAN and RAP will share the Project's operation and maintenance responsibilities. LASAN will be responsible for maintaining the structural, mechanical, and electrical stormwater quality management facilities. RAP will grant LASAN all necessary easements or rights applicable for the operation and maintenance of the Project and will maintain landscaping and provide irrigation, trash and graffiti removal, and recreational related activities.

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PROJECT ADMINISTRATION

The Agreement will be administered by the LASAN – Safe Clean Water Implementation Division.

PROJECT REVIEW BY DIRECTOR (PRD) APPROVAL

This Agreement was approved by PRD on February 28, 2023.

APPROVAL AS TO FORM

The MOA has been reviewed by the Office of the City Attorney and has been approved as to form.

STATUS OF FINANCING

There is no impact to the General Fund.

Funding in the amount of \$750,000 is available in the Budget Fiscal Year 2017-18, Fund No. 511, Stormwater Pollution Abatement, Department No. 50, Appropriation Account No. 50PSAS, Caballero Creek Park Stormwater Best Management Practices.

Existing appropriations may change based on available cash balances. Future funds and appropriations are not yet identified and will be determined by the Director of LASAN.

Funding as of the date of this Board Report has been verified and approved by the Director of the Office of Accounting, subject to terms and conditions and cash availability described above.

(Signature page follows)

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Respectfully submitted,



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BARBARA ROMERO  
Director and General Manager  
LA Sanitation and Environment

REVIEWED AND APPROVED BY:

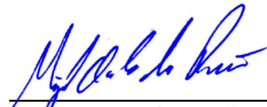


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[Sarai Bhaga \(Aug 29, 2024 15:01 PDT\)](#)

SARAI BHAGA, Chief Financial Officer  
LA Sanitation and Environment  
Date: \_\_\_\_\_

APPROVED AS TO FUNDS:



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MIGUEL DE LA PEÑA, Director  
Office of Accounting  
511/50/50PSAS \$750,000  
Date: [9/05/2024](#)

Prepared by:  
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Kevin Ho, SCWID  
(213) 485-2032

HOLLY L. WOLCOTT  
CITY CLERK

SHANNON D. HOPPE  
EXECUTIVE OFFICER

City of Los Angeles  
CALIFORNIA



ERIC GARCETTI  
MAYOR

BPW-2024-0617

**TRANSMITTAL NO. 1**  
**OFFICE OF THE**  
**CITY CLERK**

**Council and Public Services Division**

200 N. SPRING STREET, ROOM 395  
LOS ANGELES, CA 90012  
GENERAL INFORMATION - (213) 978-1133  
FAX: (213) 978-1040  
PATRICE Y. LATTIMORE  
ACTING DIVISION MANAGER

[CLERK.LACITY.ORG](http://CLERK.LACITY.ORG)

When making inquiries relative to  
this matter, please refer to the  
Council File No.: [18-0547](#)

**OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL**

June 20, 2018

**Council File No.:** [18-0547](#)

**Council Meeting Date:** June 19, 2018

**Agenda Item No.:** 23

**Agenda Description:** MOTION (BLUMENFIELD - RYU) relative to funding and Memorandum of Agreements for the Caballero Creek Park Project.

**Council Action:** MOTION (BLUMENFIELD - RYU) - ADOPTED

**Council Vote:**

YES BLUMENFIELD  
YES BONIN  
ABSENT BUSCAINO  
ABSENT CEDILLO  
ABSENT ENGLANDER

YES HARRIS-DAWSON  
YES HUIZAR  
YES KORETZ  
YES KREKORIAN  
YES MARTINEZ

YES O'FARRELL  
YES PRICE  
YES RODRIGUEZ  
YES RYU  
YES WESSON

HOLLY L. WOLCOTT  
CITY CLERK

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**Pursuant to Charter/Los Angeles Administrative Code Section(s): 341**

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**FILE SENT TO MAYOR:**

06/20/2018

**LAST DAY FOR MAYOR TO ACT:**

07/02/2018



**APPROVED**

**\*DISAPPROVED**

**\*VETO**

Acting Mayor

06/21/2018

**DATE SIGNED**

## MOTION

The Mountains Recreation and Conservation Authority (MRCA), the City (Department of Recreation and Parks, Bureau of Sanitation, and General Services), and the County have joined forces to design and complete the Caballero Creek Park Project (Project). This project will convert a 1.6-acre underutilized site into a multiple-benefit park, located at the convergence of the Los Angeles River and Caballero Creek, the only tributary stemming from the ecologically rich Santa Monica Mountains. The design utilizes innovative methods that lead to watershed protection, including a bioswale and a wetland component for storm water treatment.

In 2016-17, a total of \$750,000 in MICLA funding was allocated to the Caballero Creek Park Project. After months of collaboration, the project is ready to move forward. The MICLA funding should be transferred to the Bureau of Sanitation, who will then create and execute Memorandum of Agreements with the MRCA for completion of the Project and the Department of Recreation and Parks for implementation and maintenance of the Project.

I THEREFORE MOVE that the City Council, subject to the approval of the Mayor, authorize the transfer of appropriations of \$750,000 from an account to be established in MICLA Fund No. 298/Department No. 50, entitled Caballero Creek Park, to a new account to be established within the Stormwater Pollution Abatement Fund No. 511/50 entitled Caballero Creek Park Stormwater Best Management Practices; and

I FURTHER MOVE that the City Council, subject to the approval of the Mayor, authorize the Director of the Bureau of Sanitation, or designee, subject to the approval of the City Attorney as to form, to execute and amend as needed, a Memorandum of Agreement (MOA) with Mountains Recreation and Conservation Authority to implement the Caballero Creek Park Project.

I FURTHER MOVE that the City Council, subject to the approval of the Mayor, authorize the Director of the Bureau of Sanitation, or designee, subject to the approval of the City Attorney as to form, to execute and amend as needed, an MOA with the Department of Recreation and Parks relative to the implementation and maintenance of the Caballero Creek Park Project.

PRESENTED BY:



BOB BLUMENFIELD  
Councilmember, 3<sup>rd</sup> District

SECONDED BY:



JUN 12 2018



ORIGINAL

**Memorandum of Agreement  
between  
The City of Los Angeles  
and  
The Mountains Recreation and Conservation Authority  
for the  
Caballero Creek Park (Project)**

This Memorandum of Agreement (“Agreement”), made and entered into by and between the City of Los Angeles, a municipal corporation acting by order of and through its Los Angeles Department of Public Works, Bureau of Sanitation, also known as Los Angeles Sanitation & Environment (“LASAN”), and by order of the City Council and Mayor (the “City”), and the Mountains Recreation and Conservation Authority, a joint exercise of powers agency established pursuant to Government Code Section 6500, *et seq.* (hereinafter referred to as “MRCA”), is set forth as follows:

**WITNESSETH**

WHEREAS, the Project is located at the confluence of the Los Angeles River (LAR) and Caballero Creek, the only tributary stemming from the ecologically-rich Santa Monica Mountains; and

WHEREAS, the City of Los Angeles Department of Recreation and Parks (RAP) owns the parcel that is identified for the Project; and

WHEREAS, the Project is listed by RAP as one of the projects in the City of Los Angeles’ 50 Parks Initiative; and

WHEREAS, the Project will restore 1.6-acres of a currently paved asphalt lot into a multiple-benefit natural park; and

WHEREAS, the Project will assist the City with improving water quality by reducing the pollutant loads to the Los Angeles River, including critical pollutants such as bacteria, heavy metals, and other toxic substances; and

WHEREAS, the design of the Project utilizes an innovative mix of low-tech mechanical and biological methods, including a bioswale and a wetland component for stormwater treatment, that will lead to watershed protection; and

WHEREAS, the bioswale will serve as an educational tool that recreates a riparian habitat on site, which will infiltrate and naturally filter 11 acres of street stormwater runoff. The wetland will pump water (via solar power) from Caballero Creek and divert it on site to create riparian habitat, as well as clean the water and store it on site for consistent irrigation water supply; and

WHEREAS, the park will operate with a net-zero use of potable water and energy consumption. Through water capture and treatment, the site has the potential to connect the public to California's diminishing riverine ecosystem and to clean and protect the local water quality along with its aquatic inhabitants; and

WHEREAS, the Project will not only create a native habitat for local wildlife and help to improve water quality within the LA River, it will also provide a new publicly accessible parkland for a park-poor community; and

WHEREAS, the park's amenities will include drought-tolerant native landscaping, smart irrigation, nature trails, fencing and gateways, a shade structure, a cistern, seating, fitness stations, drinking fountains, interpretive panels, and other park amenities; and

WHEREAS, the park will be a demonstration project for future projects in the watershed and a learning tool for three schools within walking distance. Once constructed, nearby Reseda High School is expected to use the park for hands-on learning and community service opportunities; and

WHEREAS, LASAN recognizes the need to improve water quality in the Los Angeles region, provide resilient clean water and resultant supplies for recharging aquifers, reduce flooding impacts, protect compatible beneficial uses, and improve neighborhood quality of life; and

WHEREAS, LASAN is responsible for collecting, cleaning, and recycling solid and liquid waste, including stormwater and dry weather urban runoff and flood management; and

WHEREAS, the Project is consistent with LASAN's goals of reducing urban runoff pollution, enhancing water resources through the collection and use of runoff for local non-potable uses, and improving the environment for the health of the City's respective citizens and visitors; and

WHEREAS, LASAN oversees the City's compliance with the Los Angeles Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit that regulates municipal discharges of stormwater and urban dry weather runoff, including but not limited to watershed management; and

WHEREAS, the Project will assist the City in its efforts to improve water quality and to comply with the City's MS4 NPDES permit requirements by reducing the pollutant loads to Caballero Creek and LAR, including critical pollutants such as bacteria, heavy metals, nutrients, and other toxic substances; and

WHEREAS, the City's watershed management responsibilities include, but are not limited to, efforts to capture and treat stormwater and urban runoff, and there is an opportunity for the City to utilize recycled water produced by LASAN for beneficial reuse; and



WHEREAS, the City has allocated Municipal Improvement Corporation of Los Angeles (MICLA) funding for the Project, not to exceed \$750,000, to cover the costs related to the Project's design, preparation of the plans and specifications, construction, and contract administration for stormwater Best Management Practices (BMPs); and

WHEREAS, the City and MRCA, a governmental agency, have jointly developed this Project; and

WHEREAS, MRCA was selected for the Project due to its unique expertise and resources in designing and implementing projects for the long-term stewardship of public parks; and

WHEREAS, the parties now wish to enter into this Agreement to memorialize the cooperative arrangement between the City and MRCA for the use of MRCA's professional, scientific, expert, and technical services, including expertise implementing other multi-million-dollar park projects with benefits similar to this Project; and

WHEREAS, MRCA has been awarded additional funding for the Project from other funding sources, including \$2,000,000 of Proposition 1 funding from the Santa Monica Mountains Conservancy, \$500,000 from Santa Monica Mountains Conservancy, \$1,146,500 from the California Department of Natural Resources, \$300,000 of Prop A, \$250,000 of Prop 84, and \$500,000 from the Coastal Conservancy, among other sources; and

WHEREAS, it would not be reasonably practicable or in the City's interests to seek competitive proposals for the completion of this Project; and

WHEREAS, the City agrees to conduct the operation and maintenance (O&M) of the water quality improvements for the Project;

NOW, THEREFORE, incorporating the above recitals and in consideration of the promises, covenants, and agreements hereinafter set forth, the parties hereby agree as follows:

## 1. PROJECT INFORMATION

### a. Location

The Project is located in Tarzana within the City of Los Angeles. The address is 6353 Lindley Ave, Los Angeles, CA 91335. The parcel is assigned 2124-018-905 based on Los Angeles County Assessor Parcel Map Number (APN) designation.

### b. Scope

The Project consists of constructing several Best Management Practices (BMPs) facilities aimed at treating offsite and onsite runoff and reducing loadings of several contaminants to Caballero Creek and the Los Angeles River. Proposed BMPs include a stormwater trash separator unit, a stormwater pump system, a media pond filter, UV disinfection, a mixing tank, a bioswale and a wetland. The Project will also provide various park amenities and educational opportunities.

c. Funding

The estimated total cost of the Project is \$5,446,500, which includes an estimated construction cost of \$3,282,777. In Fiscal Year 2016-17, a total of \$750,000 in MICLA funding was allocated to the Project through the City's approved budget. On June 19, 2018, the City authorized the transfer of funds from a MICLA Fund entitled "Caballero Creek Park" to a new account established within the Stormwater Pollution Abatement Fund entitled "Caballero Creek Park Stormwater Best Management Practices." The funds in this new Stormwater Pollution Abatement Fund account are hereinafter referred to as "MICLA Funding" or "MICLA Funds." The City will provide SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) in MICLA Funding for the Project. In no event shall the compensation and reimbursements from the City under this agreement exceed the maximum sum of SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000), unless otherwise provided by written amendment hereto. Other funding sources for the Project are secured through state and local grant programs.

d. Schedule

At the time of signing of this Agreement, the project is in the design and permitting phase. Construction is scheduled to start in June 2024 and to be completed in 2025.

e. Project Design

The City reserves the right to approve the final design plans for the Project to ensure the plans meet the City's standards and are consistent with the scope of work as set forth in this Agreement. The City also reserves the right to participate in Project design and Project development meetings.

2. THE CITY AGREES TO:

- a. Facilitate the necessary actions required to pay MICLA Funds to MRCA upon receiving MRCA invoices in an amount not to exceed \$750,000 in total.
- b. Support public outreach efforts for this Project.

- c. Review and process all invoices from MRCA pursuant to Section 12 of this Agreement.

### 3. MRCA AGREES TO:

- a. Prepare the design of the Project, including but not limited to stormwater BMPs and components, plant palettes, irrigation, design details, and specifications.
- b. Conduct public outreach, develop documents, retain contracts, develop final designs and plans, and obtain feedback on the Project from City departments.
- c. Obtain all necessary permits and agreements for the Project.
- d. Perform the design, permitting, bid and award, and construction phases of the Project, following approval from the City, and adhere to all of the terms and conditions in the Agreement related to these tasks.
- e. Comply with all necessary environmental requirements, including but not limited to California Environmental Quality Act ("CEQA") requirements, and complete all necessary documentation, including but not limited to documentation required to satisfy CEQA requirements.
- f. Be solely responsible for any contracts entered into or other obligations or liabilities incurred by contractors or subcontractors in connection with the Project or otherwise relating to this Agreement, for which the City shall have no obligation or liability whatsoever hereunder or with respect thereto.
- g. Provide the City with detailed quarterly status reports and invoices regarding the work completed to date.
- h. Accept funds from the City and perform the work necessary to adequately and timely complete the Project consistent with the scope of work described in the Agreement. The City shall not release funds until the City has approved the work and is satisfied with the documentation included in the invoices.
- i. Retain all records and supporting documentation pertaining to the performance of the Agreement for at least four (4) years after the completion of the Project. Allow the City and State auditors access to such records during normal business hours and allow interviews of any employee who might reasonably have information related to the records.

- j. Upon completion of the Project, MRCA shall submit to the City copies of all project plans, specifications, as-built drawings, and other documents created by MRCA in connection with the Agreement.

#### 4. REQUIRED LICENSES AS APPLICABLE

a. MRCA and its directors, officers, partners, agents, employees, contractors, and subcontractors shall obtain and maintain all licenses, permits, certifications, and other documents necessary for MRCA's performance of this Agreement, and must be properly registered with the State of California Department of Industrial Relations (DIR). MRCA shall immediately notify the City of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to MRCA's performance of this Agreement.

b. MRCA and its directors, officers, partners, agents, employees, contractors, and subcontractors, to the extent allowed hereunder, shall obtain and maintain compliance at all times with all federal, state, and local laws, statutes, ordinances, rules, and regulations throughout the term of this Agreement. It shall be MRCA's responsibility to determine which permits, clearances, certifications, licenses, and approvals are required for MRCA's performance of work specified in this Agreement. MRCA shall bear the total cost of obtaining and/or renewing all required permits and approvals. MRCA certifies it will immediately notify the City of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits certificates, or other documents.

c. MRCA shall submit a copy of the most recent licenses and permits required by federal, state, and local laws, statutes, ordinances, rules and regulations related to MRCA's work (or that of its contractors or subcontractors) on this Project, if applicable.

#### 5. COMPLIANCE WITH LABOR CODE REQUIREMENTS (construction work)

- a. MRCA and its respective contractors or subcontractors shall comply with Sections 1770, 1771, 1772, 1773, 1774, 1775 and 1776 of the State of California Labor Code. Refer to Exhibit B (Labor Compliance Manual) attached hereto and incorporated by reference.

#### 6. PREVAILING WAGE (construction work)

- a. MRCA must comply with the provisions of the Labor Code of the State of California relating to Public Works wages, as applicable. These provisions require MRCA to pay not less than the "General Prevailing Wage Rates" to all

workers employed in the execution of the Agreement and to post a copy of the "General Prevailing Wage Rates" at the job site, in a conspicuous place available to all employees and applicants for employment.

- b. The "General Prevailing Wage Rates" shall be those rates as determined by the Director of DIR. Copies of those rates are on file at the City of Los Angeles Office of Contract Compliance, Bureau of Contract Administration, telephone (213) 473-2168.
- c. Information regarding prevailing wage rates may be obtained from the DIR Office of Policy, Research and Legislation, Prevailing Wage Unit, P.O. Box 420603, San Francisco, CA 94142, Telephone (415) 703-4774, Fax (415) 703-4771.
- d. In the event that MRCA utilizes the services of MRCA employees to complete any portion of the work described herein, MRCA shall submit Certified Payroll Records to the Office of Contract Compliance on a weekly basis using the City's Online Certified Payroll System (OCPS) throughout the Project until completion of the Project. In addition, MRCA shall employ apprentices in the ratio to journeymen as required by Section 1777.5 of the California Labor Code. If MRCA uses contractors or subcontractors to complete any portion of the work, it will require said contractors and subcontractors to comply with the provisions contained in Section 6 as it relates to prevailing wages.

#### 7. SENATE BILL 854 AND DIR (construction work)

- a. MRCA and/or any contractors or subcontractors performing construction work (as defined in California Labor Code Section 1720) shall be registered and maintain registration to perform public work pursuant to California Labor Code section 1725.5.
- b. MRCA is advised of the following change made by California State Senate Bill 854 (Stat. 2014, chapter 28): No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5. DIR maintains an up-to-date listing of registered contractors.

#### 8. MRCA PERSONNEL

- a. MRCA intends to complete the work contemplated in this Agreement through contractors and subcontractors. In the event that MRCA utilizes any MRCA employees to complete the work described in this Agreement, it will provide advance written notice of this decision and will produce a list of said MRCA employees upon request by the City.

- b. MRCA will provide the City with a list of all contractors and subcontractors selected for the Project. The selection of contractors and subcontractors by MRCA is governed by California Public Contract Code Section 20815, *et seq.*, which requires the award of public works contracts to the lowest responsible bidder. Nonetheless, the City reserves the right to object to any bidder for contracts or subcontracts. MRCA shall remain responsible for performing all aspects of the Agreement and paying all of its contractors and subcontractors. The City does not have any obligation to pay MRCA's selected contractors or subcontractors, and nothing herein creates any privity of contract between the City and any MRCA contractor or subcontractor.

## 9. PERFORMANCE GUARANTEES

- a. MRCA warrants that the work performed under this Agreement shall be completed in a manner consistent with professional standards practices among those performing the same or similar work under the same or similar circumstances. MRCA shall perform such professional services as may be necessary to accomplish the work required to be performed under the Agreement in accordance with the Agreement. MRCA shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all services furnished by MRCA under the Agreement. MRCA shall, at no additional cost to the City, correct or revise any errors, omissions, or other deficiencies in its design, drawings, specifications, report, calculations and other services.

## 10. INDEMNIFICATION

- a. Except for the active negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns and successors in interest, MRCA shall defend, indemnify and hold harmless the City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including MRCA's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by MRCA, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. This provision will survive expiration or termination of this Agreement.

- b. The City of Los Angeles shall indemnify and hold harmless MRCA and its officers, agents and employees from any and all loss, expense, damage, injury, liability and claims thereof for injury to or death of a person or loss of or damage to property, resulting directly or indirectly from any activity or use under this Agreement after City's acceptance of the improvements and/or during City's operation and maintenance of the park, except to the extent that such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of MRCA, its officers, agents or employees. The indemnity obligations described in this Section 10(b) shall survive expiration of this Agreement.

## 11. RETENTION OF RECORDS, AUDIT AND REPORTS

- a. MRCA shall maintain all records, including records of financial transactions, pertaining to the performance of the Agreement, in their original form or as otherwise approved by the City. These records shall be retained for a period of no less than four (4) years from the later of the following: (1) final payment made by the City, (2) the expiration of this Agreement, or (3) termination of this Agreement. The records will be subject to examination and audit by authorized City personnel or the City's representatives at any time. MRCA shall provide any reports requested by the City regarding performance of this Agreement. Any subcontract entered into by MRCA for work to be performed under this Agreement must include an identical provision.
- b. In lieu of retaining the records for the term as prescribed in this provision, MRCA may, upon the City's written approval, submit the required information to the City in an electronic format, e.g. USB flash drive, at the expiration or termination of this Agreement.

## 12. INVOICING AND PAYMENT:

- a. Compensation: The City shall compensate MRCA on a deliverables basis, at the sole discretion of the City. If the City specifies the compensation as being on a deliverables basis, payment shall be initiated upon satisfactory completion of the tasks outlined below in the performance of services under this Agreement:
  - i. Finalize design drawings for the Project improvements and stormwater treatment BMPs.
  - ii. Construct the Project and its stormwater treatment BMPs.
  - iii. Conduct a range of outreach and educational activities to generate interest in the Project and an understanding of local connection to regional water quality.

- b. Invoicing and Payment: MRCA is responsible for the preparation of complete and accurate invoices. Invoices shall be prepared in such form and supported by copies of third-party invoices and supporting documents as required by the City to establish the allowable amount of such invoices. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of MRCA. Invoices shall contain the following information:
- i. The amount due for services performed for the billing period pursuant to the terms of the Agreement
  - ii. Contract Number
  - iii. Invoice Date and Billing Period
  - iv. MRCA's Tax Identification Number
  - v. A description of the services performed related to the associated charges
  - vi. Itemization of charges including classifications, hourly rates, number of labor hours per classification and incurred expenses, if any
  - vii. Dollar amount remaining in the Agreement.
- c. Supporting Documentation: Original supporting documentation is preferred; however, photocopies of supporting documentation, if marked as "original," and signed and dated by an authorized contractor representative, will be acceptable.
- d. Invoice Submittal: MRCA shall submit all invoices to:

Michael Scaduto, Division Manager  
Safe Clean Water Implementation Division  
Los Angeles Sanitation & Environment  
1149 S. Broadway, 10<sup>th</sup> Floor, MS 1149/756  
Los Angeles, CA 90015-2213  
Phone: (213) 485-3981

In order to ensure prompt processing, indicate clearly on the outside of the envelope that the envelope contains invoices for Caballero Creek Park Project.

- e. Invoice Processing and Approval: Payments shall be made upon the submission of complete and accurate invoices. The City shall review MRCA invoices and notify MRCA in writing of exceptions within fifteen (15) days of receipt. If an invoice is not properly submitted, then a new 15-day review period will begin upon the City's receipt of a correct invoice. Once approved by the City, the City will make a good faith effort to process the payment within 45 days. No expediting of payment or explanation of payment progress shall be made within the 45-day processing period. The City's liability under this Agreement shall only be to the extent of the present appropriation to fund the Agreement. No action, statement, or omission of any officer, agent, or employee of the City shall impose any obligation upon the City, such officer, agent, or employee, except to the extent that (1) such officer, agent, or employee has acted in accordance with the terms of this Agreement; and (2) the City has appropriated funds for the specific



purposes identified in the MRCA invoices. MRCA and the City agree that no indebtedness for work performed, which results in costs under this Agreement, shall arise against the City until and unless there is an appropriation of funds to pay for such work. However, if the City appropriates funds for any successive fiscal years, the City's liability shall be extended to the extent of such appropriation subject to the terms and conditions of this Agreement.

- f. False Claims Act: MRCA acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the City under the California False Claims Act (Cal. Gov. Code 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.
- g. Late charges: The City does not pay any late charges, penalties, or interest on outstanding invoices. The City is not responsible for the payment of any interest, late charges, or penalties incurred by MRCA from any contractor, subcontractor, or supplier for any items provided under the Agreement.
- h. Disputes: In the event that a dispute arises over an invoice, the City shall pay any undisputed portion of the amount due within the time period required for such payment, and any required payment of the disputed amount in accordance with existing City practices.
- i. Past Expenses: Costs incurred by MRCA prior to the actual date of full execution of this Agreement shall only be payable to MRCA if said costs were incurred in completing tasks specifically authorized by this Agreement, and if said costs are reviewed and approved by the City and said approval for payment occurs after this Agreement is fully executed. Notwithstanding the foregoing, tasks which were completed pursuant to contract(s) which pre-dated this Agreement shall be paid pursuant to those prior contracts.
- j. Change Orders: Where a contractor or subcontractor of MRCA provides a change order to MRCA, MRCA shall provide LASAN with a copy of the change order, prior to MRCA's approval of the change order, for LASAN's review and comment.

### 13. TERM OF AGREEMENT

The term of this Agreement shall commence as of the date of the last signature required to bind the parties and shall continue through the earlier of (1) the completion of the Project; or (2) December 31, 2027, unless terminated earlier by either party, or as amended by mutual consent.

Upon notice from MRCA that the Project improvements have been completed, The City and/or its designee shall, within fifteen (15) working days of such notice, perform a final inspection; provided, however, that MRCA shall not deliver such

notice to the City until MRCA has: (1) obtained all necessary regulatory approvals, and (2) submitted to the City the completed punch list, if one was previously prepared by the City or its designee. If the City's final inspection discloses any deficiencies, the City shall prepare a punch list for completion by MRCA. Upon the City's inspection and decision to accept the work, the City shall prepare a letter of final acceptance (the "Acceptance Letter") addressed to MRCA. Upon receipt of the Acceptance Letter, MRCA shall immediately remove all of its property from the Project site and shall repair, at MRCA's cost, any damage to the Project site caused by such removal or caused by MRCA's construction activities on the Project site.

After completion of the Project improvements and acceptance thereof by the City, the City shall thereafter operate and maintain Project water quality improvements pursuant to LASAN's operations and maintenance standards.

#### 14. CHANGES OR MODIFICATIONS

Changes or modifications to the terms of this Agreement will be made by amendment in writing and signed and approved pursuant to the provisions of Standard Provision PSC-3 and subject to the approval of the Executive Director of MRCA or the Executive Director's approved designees.

#### 15. FORCE MAJEURE

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond said party's reasonable control and without the fault or negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; or freight embargoes or delays in transportation, to the extent that such circumstances are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of MRCA shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both MRCA and Subcontractor, and without any fault or negligence of either of them. In such a case, MRCA shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit MRCA to perform timely. As used in this Agreement, the term "Subcontractor" means a subcontractor at any tier.

In the event MRCA's delay or failure to perform arises out of a Force Majeure Event, MRCA agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

## 16. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Agreement have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Agreement. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against LASAN/the City or MRCA. The singular shall include the plural, and use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. Except as to Standard Provisions PSC-1, 2, 5, 6, 7, 11, 12, 13, 16, and 25, the additional terms and conditions entitled "Standard Provisions for City Contracts" (Rev. 9/22) [v.1] are incorporated herein by reference and attached as Exhibit A. MRCA is responsible for completing and submitting all attendant documentation as requested by the City. As to any construction work, it needs to comply, where applicable, with the latest edition of the Standard Specifications for Public Works Construction ("Greenbook") which is incorporated herein by reference and the Labor Compliance Manual which is also incorporated herein by reference and attached as Exhibit B.

## 17. COVID-19

Employees of MRCA and/or persons working on its behalf, including, but not limited to, contractors or subcontractors (collectively, "MRCA Personnel"), while performing services under this Agreement and prior to interacting in person with City employees, contractors, volunteers, or members of the public (collectively, "In-Person Services") must be fully vaccinated against the novel coronavirus 2019 ("COVID-19"). "Fully vaccinated" means that 14 or more days have passed since MRCA Personnel have received the final dose of a two-dose COVID-19 vaccine series (Moderna or Pfizer-BioNTech) or a single dose of a one-dose COVID-19 vaccine (Johnson & Johnson/Janssen) and all booster doses recommended by the Centers for Disease Control and Prevention. Prior to assigning MRCA Personnel to perform In-Person Services, MRCA shall obtain proof that such MRCA Personnel have been fully vaccinated. MRCA shall retain such proof for the document retention period set forth in this Agreement. MRCA shall grant medical or religious exemptions ("Exemptions") to MRCA Personnel as required by law. If MRCA wishes to assign MRCA Personnel with Exemptions to perform In Person Services, MRCA shall require such MRCA Personnel to undergo weekly COVID-19 testing, with the full cost of testing to be borne by MRCA. If MRCA Personnel test positive, they shall not be assigned to perform In-Person Services or, to the extent they have already been performing In-Person Services, shall be immediately removed from those assignments. Furthermore, MRCA shall immediately notify City if MRCA Personnel performing In-Person

Services (1) have tested positive for or have been diagnosed with COVID-19, (2) have been informed by a medical professional that they are likely to have COVID-19, or (3) meet the criteria for isolation under applicable government orders.

#### 18. NON-WAIVER

None of the provisions of this Agreement shall be deemed waived unless expressly waived in writing. An omission or failure of either party to demand or enforce strict performance of provisions of this Agreement shall not be construed as a waiver or as a relinquishment of any rights. All provisions and rights shall continue and remain in full force and effect as if such omission or failure had not occurred.

#### 19. SEVERABILITY

Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

#### 20. GOVERNING LAW

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws, including those which affect employees. This Agreement and its performance shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. All causes of action arising directly or indirectly out of this Agreement or from the business relationship evidenced by this Agreement must be filed in the appropriate state or federal court in Los Angeles County, California, and each party agrees to be subject to the personal jurisdiction of state or federal courts located in Los Angeles County, California regardless of their residence. MRCA shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement with no additional compensation paid to MRCA. If any part, term or provision of this Agreement is held void, illegal, unenforceable, or in conflict with any federal, state, or local law or regulation, the validity of the remaining parts, terms or provisions of the Agreement shall not be affected thereby.

#### 21. TRANSFER OF INTEREST

Neither party shall assign or transfer this Agreement in whole or in part without prior written consent of the other party. The consent to assign or transfer shall not be unreasonably withheld.

## 22. NOTICES

Any correspondence, communication or contact concerning this Agreement shall be directed to the following:

The City/LASAN: Michael Scaduto  
Division Manager  
Safe Clean Water Implementation Division  
Los Angeles Sanitation & Environment  
1149 S Broadway, 10<sup>th</sup> Floor  
Los Angeles, CA 90015  
Phone: (213) 485-3981

MRCA: Brian Baldauf  
Deputy Executive Officer  
Mountains Recreation and Conservation Authority  
570 W. Avenue 26, Suite 100  
Los Angeles, CA 90065  
Phone: (323) 221-9944 x 190

## 23. COUNTERPARTS

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures.

## EXHIBITS:

EXHIBIT A – Standard Provisions for the City Contracts

EXHIBIT B – Labor Compliance Manual

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

CITY OF LOS ANGELES  
LOS ANGELES SANITATION AND  
ENVIRONMENT

CITY OF LOS ANGELES  
BOARD OF PUBLIC WORKS

By \_\_\_\_\_  
Barbara Romero                      Date  
Director and General Manager

By \_\_\_\_\_  
Date

By \_\_\_\_\_  
Date

APPROVED AS TO FORM:  
HYDEE FELDSTEIN SOTO, City  
Attorney

By \_\_\_\_\_  
Thomas F. Costello-Vega              Date  
Deputy City Attorney

ATTEST:  
Holly L. Wolcott, City Clerk

By \_\_\_\_\_  
Deputy City Clerk                      Date

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

MOUNTAINS RECREATION AND CONSERVATION AUTHORITY

Date:

By:

Brian Baldauf  
Deputy Executive Officer