



Additional Documents Distributed for the Regular City Council Meeting March 15, 2017

Item No.	Agenda Item Description	Distributor	Document
4	Presentation by South Pasadena Arts Council on the South Pasadena Utility Box Art Project; Phase 2	Howard Spector, Executive Director, South Pasadena Arts Council	PowerPoint, SPARC Presentation
5	Councilmember Communications	Marina Khubesrian, M.D.	PowerPoint, Preliminary Election Results for March 6, 2017 Election and Senator Portantino Women's History Month
5	Councilmember Communications	Robert S. Joe	PowerPoint, County of Los Angeles Hazardous Waste Drop Off Program
6	City Manager Communications	Sergio Gonzalez	PowerPoint, City Manager's Bulletin
6	City Manager Communications	Sergio Gonzalez	PowerPoint, Dog Park Shade Structures
7	Merchant Minute	Laurie Hendricks, Laurie Hendricks Art Gallery	PowerPoint, Gallery Art Photos
15	Adoption of a Debt Management Policy	Diana Mahmud, Councilmember	Additional Document, Memo to Council, Suggested Edits to the Debt Management Policy
16	Award of Contract with Castlerock Environmental, Inc., in the Amount of \$39,345 for the Asbestos/Lead Abatement for the Eddie Park House	Sheila Pautsch, Community Services Director	Additional Document, Memo to Council
19	Authorize a Letter of Support for Senate Bill 589 Regarding Municipal Storm Sewer Systems	Desiree Jimenez, Deputy City Clerk	Additional Document, Memo to Council
20	Reappoint Ontario Mayor Paul Leon to the Metro Gold Line Foothill Extension Construction Authority Board of Directors and Reappoint Daniel Evans as a Non-Voting Member	Desiree Jimenez, Deputy City Clerk	PowerPoint, Staff Presentation



SPARC BOX ART PROJECT

2016-17

- In 2015-16 we initiated Phase I of the Box Art Project with 10 boxes with seed money from the City and private fundraising from individuals, organizations, and businesses
- SPARC recently completed Phase II of the Box Art Project
- We added an additional 10 boxes, bringing the total to 20 completed
- This year we funded the project through private support from individuals, organizations, and businesses

2016-17 Artists

#11 NW corner Fair Oaks/ Columbia

Artist: Alee Peoples

#16 SW corner Fremont Ave/Oak

Artist: Shannon Freshwater

#12 NE corner Fremont Ave/ Grevelia

Artist: Hembert Guardado

#17 NE corner Fair Oaks/Oak

Artist: Grace Hae Lee

#13 SW corner Mission/Garfield

Artist: Ricardo Cerezo

#18 NE corner Huntington/Fremont

Artist: Paul Juno

#14 SW corner Fair Oaks/Bank

Artist: Ian Robertson-Salt

#19 NE corner Huntington/Marengo

Artist: Victoria Arriola

#15 NW corner Fair Oaks/Rollin

Artist: Mary-Linn Hughes

#20 NW corner Huntington/Fletcher

Artist: Luis Grane

SPECTOR
Additional Material
AGENDA ITEM # 4
3/15/17 City Council Mtg.

Box Art Map



SPARC
South Pasadena Art Resource Center
www.southpasadena.org

SPARC 2016 Art Boxes

- 11. NW corner Fair Oaks/ Columbia
Artist: Alee Peoples
Sponsor: Carmen Stewart (artist)
- 12. NE corner Fremont Ave/ Crevello
Artist: Humberto Cuatrecasas Sponsor:
Walter Kato, Brad
& Cynthia Thiel, Cristchan Roboette,
South Pasadena Beautifair
- 13. SW corner Mission/Carfield
Artist: Ricardo Carera
Sponsor: Celeste Sherrillburn,
Massage Envy (artist)
- 14. SW corner Fair Oaks/Bank Arts
Ian Robertson-Salt Sponsor
Santitasas Orthodontics
- 15. NW corner Fair Oaks/Rollin
Artist: Mary-Linn Hughes Sponsor
Alan & Lin Vasco
- 16. SW corner Fremont Ave/Oak
Artist: Shannon Freshwater
Sponsor: Ed Bivens & Ruby Kanto, Mr.
& Mrs. Douglas Yokoyama, Jaime
Nuchols, Patrick, Amber, & Garrett
Haley
- 17. NE corner Fair Oaks/Oak Artist
Grace Hae Lee
Sponsor: Santitasas Orthodontics
- 18. NE corner Huntington/ Fremont
Artist: Paul Jomo
Sponsor: Mary Urquhart (artist)
- 19. NE corner Huntington/Marengo
Artist: Victoria Arevalo
Sponsor: WSEPPA, Bianca Richards
- 20. SW corner Huntington/Fletcher
Artist: Leah Green
Sponsor: Brett Bernard, Ed & Chantal
Dumely

Alee Peoples



“Textile Facets”

Alee Peoples



Hemberto Guardado



"Legend vs. Legend"

Hemberto Guardado



Ricardo Cerezo



"Squirrel's Day Off"

Ricardo Cerezo



Ian Robertson Salt



"Duck"

Ian Robertson-Salt



Mary-Linn Hughes



"Cake and Birds"

Mary-Linn Hughes



Shannon Freshwater



Shannon Freshwater



"Houses"

Grace Hae Lee



"Small Wonders"

Grace Hae Lee

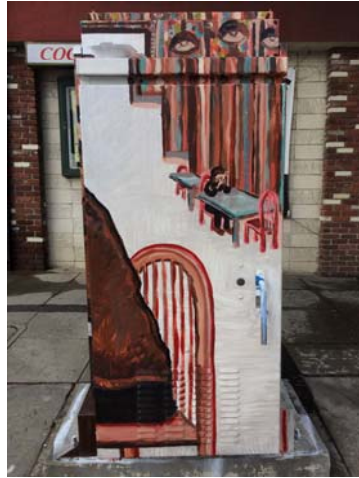


Paul Juno



"Man Eating Pie"

Paul Juno



Victoria Arriola



"Drifting"

Victoria Arriola



Luis Grane



"Iconic South Pasadena"

Luis Grane



SPARC BOX ART PROJECT 2016-17

Current Sponsors

City of South Pasadena	SmileHaus Orthodontics
Brett Barnard	Ed and Chantal Donnelly
WISPPA	Bianca Richards
Mary Urquhart	Allan & Lin Vlacich
Ed Elsner	Ruby Karla
Joanne Nuckols	Mr. & Mrs. Douglas Yokomizo
Patrick, Amber, Garrett Haley	Collette Dornblum
Massage Envy	Gretchen Robinette
South Pasadena Beautiful	Brad & Cynthia Theil
Carmen Stewart	Wayna Kato

SPARC BOX ART PROJECT

2015-16

Sponsors

City of South Pasadena	Mission Millwork
Watson Design Group	Casa Del Arte
Mission Tile	Meg Middleman, Century 21 Masters
Morrow & Holman Plumbing	Gary Pia, Mission Street Wealth Planning
Michele Downing, Partner's Trust Real Estate	The Urquhart Family
Athens Services	South Pasadena Chamber of Commerce
Art in Context	Cara Yokomizo
The Spector Family	Fremont Centre Theatre
The Barnard Family	StorBox Self- Storage, Wine Grotto
Sheila Pautsch	Dr. Suzie Abajian
Waynna Kato	Estelle Underwood

SPARC BOX ART PROJECT

2016-17

Ongoing Sponsorship Opportunities

We are currently seeking additional funding to fully fund this year's boxes.

Our goal to complete our campaign is **\$1,750**

Sponsorship can be from one individual or organization or from a group of organizations or individuals.

Most of our boxes are fully funded, we are seeking partial funding to complete the final 3 boxes.

For more information on sponsorship, please contact Howard Spector, CEO at info@sopasartscouncil.org or visit our website www.sopasartscouncil.org/donate



Preliminary Election Results for March 6, 2017 (report last updated on 03/08/2017)

City	Registration	Ballots Cast	Voter Turnout
Alhambra	41,158	2,959	7.19%
Glendale	105,841	10,133	9.57%
La Canada Flintridge	15,020	2,914	19.4%
Los Angeles	2,030,173	262,581	12.93%
Monterey Park	28,047	3,389	12.08%
Pasadena	87,497	12,779	14.61%
South Pasadena	16,872	2,837	16.81%

Measure H

South Pasadena

Yes – 71%

No – 29%

Knubesian
Additional Material
AGENDA ITEM # 5
3/15/17 City Council Mtg.



SAVE THE DATE!

Please join
Senator Anthony J. Portantino
to celebrate the
2017 Women of the Year for SD25
Sun. March 26th
2pm to 4pm
Pasadena City Hall Courtyard

Formal invite to follow



MARCH 5
9AM - 3PM

GOLDEN STREETS



GEU





General Plan Focus Group





General Plan Focus Group





Budget Priorities Community Forum





Budget Priorities Community Forum







County of Los Angeles Hazardous Waste Drop Off Program

	South Pasadena	Los Angeles County
Households Served	639	51,342
Used Oil (Gallons)	110	21,586
Paint (Gallons)	2,306	178,298
Misc. (Gallons)*	1,634	143,740
Car Battery (Units)	46	5,288
Coolant (Gallons)	45	6,342
CRTs (Monitors) (Units)	33	6,506
Misc. E-Waste (Pounds)	9,840	723,819

*Includes pesticides, flammables, poisons, etc.

JOE
Additional Material
AGENDA ITEM # 5
3/15/17 City Council Mtg.



City Manager's Bulletin for March 15, 2017 Meeting

Date/ Time	Event	Location
March 20, 7:00 p.m.	Community Meeting on Renter's Concerns	Library Community Room, 1115 El Centro St.
March 21, 7:00 p.m.	Special Council Meeting on FY2017- 18 Budget	Council Chamber, 1424 Mission St.
March 22, 7:00 p.m.	General Plan/MSSP CORE Focus Group Meeting	Library Community Room, 1115 El Centro St.
March 29, 7:00 p.m.	Plan South Pasadena Lecture Series: Richard Wilson, Parking	Council Chamber, 1424 Mission St.

South Paws-adena Dog Park has re-opened with new shade structures!



Small Dog Park



Large Dog Park Area



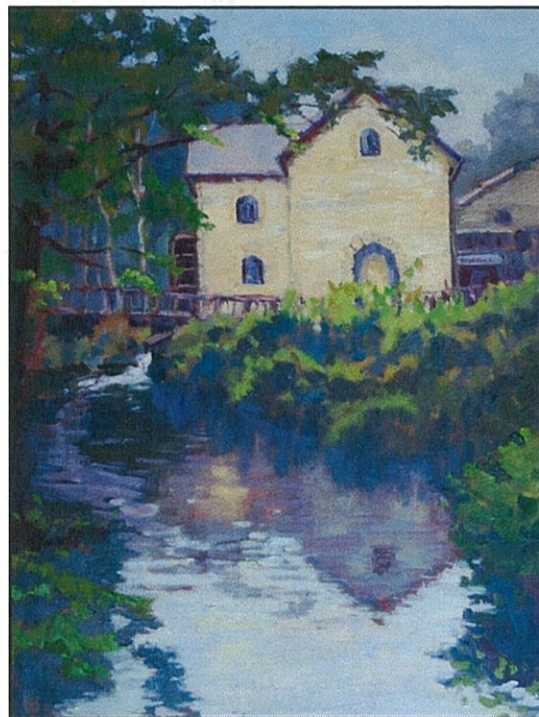
Large Dog Park Area

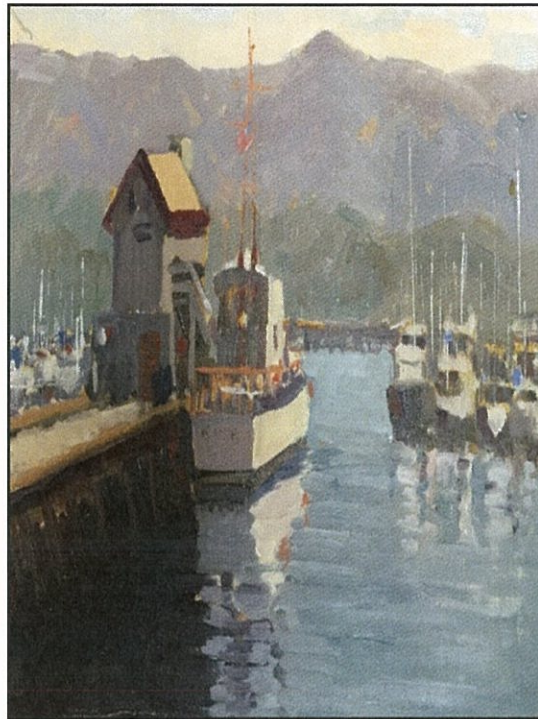


Puppies enjoying the shade



Hendricks
Merchant Minute
Additional Material
AGENDA ITEM # 1
3/15/17 City Council Mtg.





Memo

Date: March 15, 2017

To: Honorable Mayor and Members of the City Council

Via: Sergio Gonzalez, City Manager

From: Desiree Jimenez, Deputy City Clerk *DJ*

Re: March 15, 2017 City Council Meeting, Additional Document for Item No. 15 - Adoption of a Debt Management Policy

Attached for your consideration are proposed edits made by Councilmember Mahmud to the Debt Management Policy.

*CC: Council; CM; CA; CCC; DEPT; Reference Binder; Original to 3/15/17
Add Docs*

Mahmud
Additional Material
AGENDA ITEM # 15
3/15/17 City Council Mtg.

DEBT MANAGEMENT POLICY^[DM1]

The purpose of this Debt Management Policy (Debt Policy) is to establish guidelines for the issuance and management of the debt obligations of the City of South Pasadena (City). The Debt Policy may be amended or waived pursuant to Section F by the City Council as it deems appropriate from time to time for the prudent management of the debt of the City.

1. Debt Management Objectives

The Debt Policy is intended to comply with Government Code Section 8855(i), effective on January 1, 2017, and shall govern all debt undertaken by the City.

The City recognizes that a fiscally prudent debt policy is required in order to:

- Maintain the City's sound financial ^{position}^[DM2];
- Ensure the City has the flexibility to respond to changes in future service priorities, revenue levels, and operating expenses;
- Protect the City's credit-worthiness;
- Ensure that all debt is structured in order to protect both current and future taxpayers, ratepayers and constituents of the City; and
- Ensure that the City's debt is consistent with the City's planning goals and objectives and capital improvement program or budget, as applicable.

The main objectives of the policy are to establish conditions for the use of debt:

- To ensure that the use of debt in the form proposed is the most reasonable and cost-effective alternative available to the city to fund the given objective
- To ensure that debt capacity and affordability are adequately considered.
- To minimize the City's interest and issuance costs.
- To maintain the highest possible credit rating.
- To provide complete financial disclosure and reporting.
- To maintain financial flexibility for the City.

2. Policies

A. Purposes For Which Debt May Be Issued

The City will consider the use of debt financing primarily for capital improvement projects (CIP) when the project's useful life will equal or exceed the term of the financing or otherwise comply with federal tax law requirements, and when resources are identified sufficient to fund the debt service requirements. An exception to this CIP-driven focus is the issuance of short-term instruments such as tax and revenue anticipation notes, which are to be used for prudent cash management purposes and conduit financing, as described below. Bonded debt should not be issued to finance normal operating expenses.

If a department has any project which is expected to use debt financing, the department director is responsible for expeditiously providing the City Manager and the Finance Director with reasonable cost estimates, including specific revenue sources that will

provide payment for the debt service. This will allow an analysis of the project's potential impact on the City's debt capacity and limitations. The department director shall also provide an estimate of any incremental operating and/or additional maintenance costs associated with the project and identify sources of revenue, if any, to pay for such incremental costs.

(1i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment, and land to be owned and/or operated by the City.

(a) Long-term debt financings are appropriate when the following conditions exist:

- When the project to be financed is necessary to provide basic services; and
- When the project to be financed will provide benefit to constituents over multiple years; and
- When total debt does not constitute an unreasonable burden to the City and its taxpayers and ratepayers; or
- When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.

(b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.

(c) The City may use long-term debt financings subject to the following conditions:

- The project to be financed has been or will be approved by the City Council;
- The City estimates that sufficient income or revenues will be available to service the debt through its maturity;
- The City determines that the issuance of the debt will comply with the applicable requirements of state and federal law; and
- The City considers the improvement/facility to be of vital, time-sensitive need of the community and there are no plausible alternative financing sources.

(d) Periodic reviews of outstanding long-term debt will be undertaken to identify refunding opportunities. Refunding will be considered (within federal tax law constraints, if applicable) if and when there is a net economic benefit of the refunding. Refundings which are non-economic may be undertaken to achieve City objectives relating to changes in covenants, call provisions, operational flexibility, tax status of the issuer, or the debt service profile.

In general, refundings which produce a net present value aggregate savings of at least three (3) percent of the refunded debt will be considered economically viable. Refundings which produce a net present value aggregate savings of less than three (3) percent or negative savings will be considered on a case-by-case basis, and All refundings are subject to City Council approval.

(ii) (2) Short-term debt. Short-term borrowing may be issued to generate funding for cash flow needs.

Short-term borrowing, such as commercial paper, Tax and Revenue Anticipation Notes (TRANS), and lines of credit, will be considered as an interim source of funding in anticipation of long-term borrowing. Short-term debt may be issued for any purpose for which long-term debt may be issued, including capitalized interest and other financing-related costs. Prior to issuance of short-term debt, a reliable revenue source shall be identified to secure repayment of the debt. The final maturity of the debt issued to finance the project shall be consistent with the economic or useful life of the project.

Short-term debt may also be used to finance short-lived capital projects such as lease-purchase financing for equipment.

(iii) (3) Financings on Behalf of Other Entities. The City may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties in order to further the public purposes of the City. In such cases, the City shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein. In no event will the City incur any liability or assume responsibility for payment of debt service on such debt.

B. Types of Debt

In order to maximize the financial options available to benefit the public, it is the policy of the City to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: GO Bonds are suitable for use in the construction or acquisition of improvements to real property that benefit the public at large. Examples of projects include libraries, parks, and public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.
- Revenue Bonds / Certificates of Participation (COPs): Revenue Bonds are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. Generally, no voter approval is required to issue this type of obligation but in some cases, the City must comply with Proposition 218 regarding rate adjustments.
- Joint Powers Authority (JPA) Revenue Bonds: As an alternative to COPs, the City may obtain financing through the issuance of debt by a joint exercise of powers agency with such debt payable from amounts paid by the City under a lease, installment sale agreement, or contract of indebtedness.
- Loans: The City is authorized to enter into loans, installment payment obligations, or

other similar funding structures secured by a prudent source, or sources of repayment.

- Lease-Backed Debt / Certificates of Participation (Lease Revenue Bonds / COPs): Issuance of Lease-Backed Debt is a commonly used form of debt that allows a City to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriation by the City. Lease-Backed Debt does not constitute indebtedness under the State or the City's constitutional debt limit and does not require voter approval.
- Special Assessment / Special District Debt: The City will consider requests from developers for the use of debt financing secured by property-based assessments or special taxes in order to provide for necessary infrastructure for new development under guidelines adopted by the City Council, which may include minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (AD) and Community Facilities Districts (CFD) or more commonly known as Mello-Roos Districts. In order to protect bondholders as well as the City's credit rating, the City will also comply with all State guidelines regarding the issuance of special district or special assessment debt.
- Refunding Bonds: The Finance Director shall identify refunding opportunities and prepare a present value analysis that describes the economic effects of a refunding. Refundings may be undertaken in order: (i) to take advantage of lower interest rates and achieve debt service costs savings; (ii) to eliminate restrictive or burdensome bond covenants; or (iii) to restructure debt to lengthen the duration of repayment, relieve debt service spikes, reduce volatility in interest rates or free up reserve funds. Generally, the City shall strive to achieve a minimum of 3% net present value savings for a current refunding and a minimum of 5% net present value savings for an advance refunding. Upon the advice of the Finance Director and with the assistance of a financial advisor and bond counsel, the City will consider undertaking refundings for other than economic purposes upon a finding that such a restructuring is in the City's overall best financial interest.

The City may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

To maintain a predictable debt service burden, the City will give preference in the future to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is variable rate debt. When making the determination to issue bonds in a variable rate mode in the future, consideration will be given in regards to the useful life of the project or facility being financed or the term of the project requiring the funding, market conditions, credit risk and third party risk analysis, cost benefit of employing interest rate caps, and the overall debt portfolio structure when issuing variable rate debt for any purpose.

The use of derivative products can, among other things, increase City financial flexibility and provide opportunities for interest rate savings or enhance investment yields. Careful monitoring of such products is required to preserve City credit strength and budget flexibility. Swaps will not be used to speculate on perceived movements in interest rates. Before the City enters into any derivative product associated with debt, the City Council or appropriate governing body [DM3] shall consider and approve the plan and product separately.

C. Relationship of Debt to Capital Improvement Program and Budget

The City intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the City's capital budget and the capital improvement plan.

The City shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues, and shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear, unless a specific revenue source has been identified for this purpose.

The City shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available to be advanced when needed in furtherance of the City's public purposes, and to avoid having to make unplanned expenditures for capital improvements or equipment from its General Fund. The City should avoid issuance of debt significantly in advance of its ability to use the financing proceeds for their intended purpose. If the City intends to finance several projects through the issuance of a single financing, it shall seek to employ financing through a drawdown type of financing, which is similar to a line of credit in private financing.

The decision to incur new indebtedness should be integrated with the adopted annual Operating Budget and Capital Improvement Program Budget. The annual debt service payments shall be included in the Operating Budget.

D. Policy Goals Related to Planning Goals and Objectives

The City is committed to financial planning, maintaining appropriate reserves levels, and employing prudent practices in governance, management and budget administration. The City intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the City's annual Operating Budget.

It is a policy goal of the City to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques so as to obtain the highest practical credit ratings, if applicable, and the lowest practical borrowing costs.

The City will comply with applicable State and Federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates, and charges.

E. Internal Control Procedures

When issuing debt, in addition to complying with the terms of this Debt Policy, the City

shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds. The Finance Director has the responsibility to determine and oversee internal control procedures.

The City will periodically review the requirements of and will remain in compliance with the following:

- Federal securities law, including any continuing disclosure undertakings under SEC Rule 15c2-12;
- Any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues;
- The City's investment policies as they relate to the investment of bond proceeds; and
- Government Code section 8855(k) and the annual reporting requirements therein.

The City shall be vigilant in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. Whenever reasonably possible, proceeds of debt will be held by a third-party trustee and the City will submit written requisitions for such proceeds.

F. Amendment and Waivers of Debt Policy

- The Debt Policy will be reviewed and amended from time to time as appropriate subject to City Council approval.
- There will be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the City.
- If the City staff has determined that a waiver of one or more provisions of this Debt Policy should be considered by the City Council, it will prepare an analysis for the City Council describing the rationale for the waiver and the impact of the waiver on the proposed debt issuance and on taxpayers, if applicable.
- Upon a majority vote of the City Council, one or more provisions of this Debt Policy may be waived for a debt financing.
- The failure of a debt financing to comply with one or more provisions of the Debt Policy shall in no way affect the validity of any debt issued by the City in accordance with applicable laws.

G. Professional Assistance

The City shall utilize the services of independent financial advisors and bond counsel on all debt financings. The Finance Director shall have the authority to periodically select service providers as necessary to meet legal requirements and minimize net City debt costs. Such services, depending on the type of financing, may include financial advisory, underwriting,

trustee, bond counsel, disclosure counsel, verification agent, escrow agent, arbitrage consulting, continuing disclosure consultants, and special tax consulting. The goal in selecting service providers, whether through a competitive process or when appropriate, a sole-source selection, is to achieve an appropriate balance between service and cost.

O

Memo

Date: March 15, 2017

To: Honorable Mayor and Members of the City Council

Via: Sergio Gonzalez, City Manager

From: Sheila Pautsch, Community Services Director *SP for SP*

Re: March 15, 2017 City Council Meeting, Additional Document for Item No. 16 – Award of Contract with Castlerock Environmental, Inc., in the Amount of \$39,345 for the Asbestos/Lead Abatement for the Eddie Park House

Attached for your reference is the correct corresponding page for Section 13.2., for the contract with Castlerock Environmental, Inc.

CC: Council; CM; CA; CCC; Dept; Reference Binder; Original to 3/15/17 Addl Docs

Additional Material
AGENDA ITEM # 16
3/15/17 City Council Mtg.

**CONSTRUCTION SERVICES AGREEMENT
Providing Payment of Prevailing Wages**

(City of South Pasadena / Castlerock Environmental, Inc.)

1. IDENTIFICATION

This CONSTRUCTION SERVICES AGREEMENT (“Agreement”) is entered into by and between the City of South Pasadena, a California municipal corporation (“City”), and Castlerock Environmental, Inc., a Corporation (“Contractor”).

2. RECITALS

- 2.1. City has determined that it requires the following construction services from a contractor: Asbestos/Lead Abatement at Eddie Park House.
- 2.2. Contractor represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Contractor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Contractor agree as follows:

3. DEFINITIONS

- 3.1. “Scope of Services”: Such professional services as are set forth in Contractor’s February 3, 2017 proposal to City attached hereto as Exhibit A.
- 3.2. “City Reference Specifications”: The City’s set of Reference Specifications, the Standard Specifications, Special Provisions, and all referenced specifications, details, standard drawings, and appendices, together with two signed copies of the Agreement, two signed copies of required bonds; one copy of the insurance certificates, permits, notices and affidavits; and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to ensure its complete in an acceptable manner. Reference Specifications also include, if applicable, the Notice Inviting Sealed Bids, Instructions to Bidders, Bid Proposal, and Bid Schedule. To the extent any provisions in this Agreement or the Scope of Services are inconsistent with the City Reference Specifications, this Agreement’s terms shall prevail.
- 3.3. “Agreement Administrator”: The Agreement Administrator for this project is Sheila Pautsch. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the

request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Contractor

- 3.4. "Maximum Amount": The highest total compensation and costs payable to Contractor by City under this Agreement. The Maximum Amount under this Agreement is Thirty Nine Thousand, Three Hundred Forty Five Dollars (\$39,345).
- 3.5. "Commencement Date": March 15, 2017
- 3.6. "Termination Date": June 30, 2017

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 18 ("Termination") below. Contractor may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this agreement.

5. CONTRACTOR'S DUTIES

- 5.1. **Services.** Contractor shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2. **Coordination with City.** In performing services under this Agreement, Contractor shall coordinate all contact with City through its Agreement Administrator.
- 5.3. **Budgetary Notification.** Contractor shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Contractor shall concurrently inform the Agreement Administrator, in writing, of Contractor's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.
- 5.4. **Business License.** Contractor shall obtain and maintain in force a City business license for the duration of this Agreement.
- 5.5. **Professional Standards.** Contractor shall perform all work to the highest standards of Contractor's profession and in a manner reasonably satisfactory to City. Contractor

shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

- 5.6. Appropriate Personnel.** Contractor has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Contractor or under its supervision or by subcontractor(s) of Contractor, and all personnel engaged in the work shall be qualified to perform such services. Ben Cover shall be Contractor's project administrator and shall have direct responsibility for management of Contractor's performance under this Agreement. No change shall be made in Contractor's project administrator without City's prior written consent.
- 5.7. Prevailing Wages.** This Agreement is subject to the prevailing wage law as more fully set forth in Section 8 (Labor Code), for all work performed under this Agreement for which the payment of prevailing wages is required under the California Labor Code. In particular, Contractor acknowledges that prevailing wage determinations are available for work performed under this Agreement.
- 5.8. Unauthorized Delay.** In accordance with Government Code 53069.85, and all other applicable law, the Contractor agrees to forfeit and pay City the amount of Two Hundred Dollars (\$200.00) per day for each and every day of unauthorized delay beyond the Termination Date, which shall be deducted from any monies due to Contractor. This payment shall be considered liquidated damages. Contractor agrees that such liquidated damages are reasonable under the circumstances existing at the time of execution of the contract, that such liquidated damages are to compensate City for losses that are difficult to measure, and that such damages are not a penalty.
- 5.9. Unforeseeable Delay.** Contractor shall not be deemed in breach of this Agreement and no forfeiture due to delay shall be made because of any delays in the completion of the Scope of Services due to unforeseeable causes beyond the control and without the fault or negligence of Contractor provided Contractor requests from the Agreement Administrator an extension of time in writing. Unforeseeable causes of delay beyond the control of Contractor shall include acts of God, acts of a public enemy, acts of the government, acts of City, or acts of another contractor in the performance of a contract with City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather, or delays of subcontractors due to such causes, or delays caused by failure of the owner of a utility to provide for removal or relocation of existing utility facilities. Delays caused by actions or negligence of Contractor or its agents, servants, employees, officers, subcontractors, directors, or of any party contracting to perform part of all of the Scope of Services or to supply any equipment or materials shall not be unforeseeable delays. Unforeseeable delays (those beyond Contractor's control) shall not entitle Contractor to any additional

compensation beyond the Maximum Amount. The sole recourse of Contractor shall be to seek an extension of time from the Agreement Administrator.

- 5.10. Defective Work.** All work which is defective in its construction or deficient in any of the requirements set by City Reference Specifications shall be remedied or replaced by Contractor in an acceptable manner at its own expense. Defective work shall not entitle Contractor to any additional compensation beyond the Maximum Amount.
- 5.11. Permits and Approvals.** Contractor shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Contractor's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.12. Notification of Organizational Changes.** Contractor shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Contractor's firm or of any subcontractor. Change of ownership or control of Contractor's firm may require an amendment to this Agreement.
- 5.13. Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

6. SUBCONTRACTING AND ASSIGNMENT

- 6.1. General Prohibition of Assignment.** This Agreement covers construction services of a specific and unique nature. Except as otherwise provided herein, Contractor shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.2. Contractor Responsible.** Contractor shall be responsible to City for all services to be performed under this Agreement.
- 6.3. Subcontracting.** Contractor shall not subcontract any portion of the performance contemplated and provided for herein unless (1) such subcontracting is specifically described in the proposal attached hereto or (2) the City provides prior written approval. In any event, Contractor shall supervise all work subcontracted by

Contractor in performing the Services and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work shall not relieve Contractor from any of its obligations under this Agreement with respect to the Services. Contractor is obligated to ensure that any and all subcontractors performing any Services shall be fully insured in all respects and to the same extent as set forth under Section 13, to City's satisfaction.

- 6.4. Compensation for Subcontractors.** Contractor shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

7. COMPENSATION

- 7.1. General.** City agrees to compensate Contractor for the services provided under this Agreement, and Contractor agrees to accept payment, of the Maximum Amount in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Contractor shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
- 7.2. Retention.** City may retain up to 5% of each payment until project completion. Contractor may at its own expense substitute securities equivalent to the amount withheld as retention (or the retained percentage) in accordance with Public Contract Code 22300. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with City, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to City. Upon satisfactory completion of this Agreement, the securities shall be returned to Contractor.
- 7.3. Invoices.** Contractor shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. Contractor shall include a copy of each subcontractor invoice, if any, for which reimbursement is sought in the invoice.
- 7.4. Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Contractor except as otherwise required by law. Contractor shall be solely responsible for calculating, withholding, and paying all taxes.
- 7.5. Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Contractor.
- 7.6. Additional Work.** Contractor shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given

by the City on a time-and-materials basis pursuant to a written change order. Contractor shall not undertake any such work without prior written approval of the City. A written change order may be issued without amendment to this Agreement, so long as such written change order does not cause the Maximum Amount to be exceeded. Contractor shall only be compensated for such additional work at the rates and costs for labor and materials included in the bid or proposal.

City-Initiated Changes - City may propose in writing changes to Contractor's work within the Scope of Services described. If Contractor is of the opinion that any proposed change causes an increase or decrease in the cost, or a change in the schedule for performance, of the services, Contractor shall notify City in writing of that fact within five (5) days after receipt of written proposal for changes.

Contractor-Initiated Changes – Contractor may propose in writing changes to the Scope of Services, upon identifying a condition which may change the Scope of Services as agreed at the time of execution of this Agreement. Contractor must notify the City's Agreement Administrator of any changed conditions upon discovery and before they are disturbed. The Public Works Director shall investigate, and if the Public Works Director determines that the conditions will materially affect costs, will issue a Change Order adjusting the compensation for such portion of the Scope of Services. If the Public Works Director determines that conditions are changed conditions and they will materially affect performance time, the Contractor, upon submitting a written request, will be granted an extension of time. If the Public Works Director determines that the conditions do not justify an adjustment in compensation or time, the Contractor will be notified in writing. This notice will also advise the Contractor of its obligation to notify the Public Works Director in writing if the Contractor disagrees.

When and if City and Contractor reach agreement on any such proposed change and its effect on the cost and time for performance, they shall confirm such agreement in writing as an amendment to this Agreement. Contractor may not cease work or delay progress on the original project pending negotiations over changes, and must continue to diligently complete the project.

Should the Contractor disagree with the decision, it may submit a written notice of potential claim to the Public Works Director before commencing the disputed work. In the event of such a dispute, the Contractor shall not be excused from any scheduled completion date provided by the Contract and shall proceed with all work to be performed under the Contract. However, the Contractor shall retain any and all rights provided by either Contract or law which pertain to the resolution of disputes and protests between the contracting parties.

The Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

8. LABOR CODE

- 8.1. Prevailing Wage Law.** This Agreement is subject to the requirements of the prevailing wage laws, including, but not limited to, Labor Code Section 1720 et seq., and Labor Code Section 1770 et seq., as well as Code of Regulations, Title 8, Section 16000 et seq., which require payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Contractor shall defend, indemnify, and hold harmless City, and its officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of failure or alleged failure of Contractor to comply with such prevailing wage laws.
- 8.2. Payment of Prevailing Wages.** Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations, the Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification.
- 8.3. Forfeiture.** Contractor shall forfeit as a penalty to City Two Hundred Dollars (\$200.00), or any greater penalty provided in the Labor Code, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under this Agreement employed in the performance of the Scope of Services by Contractor or by any subcontractor of Contractor in violation of the provisions of the Labor Code. In addition, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Contractor.
- 8.4. Apprentices.** Contractor shall comply with the provisions of Labor Code 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code 1777.5.
- 8.5. Payroll Records.** Pursuant to Labor Code 1776, Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code 1811 and Labor Code 1815 for any work performed by his or her employees on the public works project. The payroll records shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code 1776.

- 8.6. 8-Hour Work Day.** This Agreement is subject to 8-hour work day and wage and hour penalty laws, including, but not limited to, Labor Code 1810 and Labor Code 1813. Contractor and any subcontractor(s) of Contractor shall strictly adhere to the provisions of the Labor Code regarding 8-hour work day and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Pursuant to the Labor Code, eight hours' labor shall constitute a legal day's work. Work performed by Contractor's employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to City \$25.00, or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.
- 8.7. Registration with DIR.** Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code 1771 and Labor Code 1725.5 requiring registration with the Department of Industrial Relations (DIR).

9. PUBLIC CONTRACT CODE.

- 9.1. Prompt Payment.** This Agreement is subject to the provisions of Article 1.7 (commencing at § 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to the contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with this Article. This Agreement hereby incorporates the provisions of Article 1.7 as though fully set forth herein.
- 9.2. Public Works Claims Less Than \$375,000.** To the extent applicable, this Agreement is further subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by the contractor, for the response to such claims by the contracting public agency, for a mandatory meet and confer conference upon the request of the contractor, for mandatory nonbinding mediation in the event litigation is commenced, and for mandatory judicial arbitration if the parties fail to resolve the dispute through mediation. This Agreement hereby incorporates the provisions of Article 1.5 as though fully set forth herein.
- 9.3. Ineligible Subcontractor(s).** This Agreement is further subject to the provisions of Public Contracts Code 6109 which prohibits Contractor from performing work on this

project with a subcontractor who is ineligible to perform work on the project pursuant to Labor Code 1777.1 or Labor Code 1777.7.

- 9.4. Assignment of Actions.** Contractor and any and all subcontractors shall offer and agree to assign to City all rights, title, and interest in and to all causes of action it/they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 4) or under the Cartright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Agreement. This assignment shall be made and become effective at the time City tenders final payment to Contractor, without further acknowledgment by the parties.

10. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material (“written products” herein) developed by Contractor in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Contractor.

11. RELATIONSHIP OF PARTIES

- 11.1. General.** Contractor is, and shall at all times remain as to City, a wholly independent contractor.
- 11.2. No Agent Authority.** Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor’s employees, except as set forth in this Agreement. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
- 11.3. Independent Contractor Status.** Under no circumstances shall Contractor or its employees look to the City as an employer. Contractor shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Contractor’s previously earned California Public Employees Retirement System (“CalPERS”) retirement benefits, if any, and Contractor specifically assumes the responsibility for making such a determination. Contractor shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation, and other applicable federal and state taxes.
- 11.4. Indemnification of CalPERS Determination.** In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this

Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

12. INDEMNIFICATION

- 12.1. Definitions.** For purposes of this Section 12, "Contractor" shall include Contractor, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Contractor or its subcontractors, in the performance of this Agreement. "City" shall include City, its officers, agents, employees and volunteers.
- 12.2. Contractor to Indemnify City.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Contractor's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Contractor or failure to comply with any provision in this Agreement.
- 12.3. Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. Contractor shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.
- 12.4. Attorneys' Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of City's choice, expert fees and all other costs and fees of litigation. Contractor shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 12.5. Defense Deposit.** The City may request a deposit for defense costs from Contractor with respect to a claim. If the City requests a defense deposit, Contractor shall provide it within 15 days of the request.
- 12.6. Waiver of Statutory Immunity.** The obligations of Contractor under this Section 12 are not limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City.
- 12.7. Indemnification by Subcontractors.** Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 12 from

each and every subcontractor or any other person or entity involved in the performance of this Agreement on Contractor's behalf.

- 12.8. Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Contractor's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

13. INSURANCE

- 13.1. Insurance Required.** Contractor shall maintain insurance as described in this section and shall require all of its subcontractors, Contractors, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Contractor. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

- 13.2. Documentation of Insurance.** City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Contractor shall file with City:

- Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: ~~Purchase and Installation of Shade Structures at the Dog Park~~ **Asbestos/Lead Abatement at Eddie Park House.**
- Documentation of Best's rating acceptable to the City.
- Original endorsements effecting coverage for all policies required by this Agreement.

The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

- 13.3. Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- Professional Liability Insurance: \$2,000,000 per occurrence,
\$4,000,000 aggregate
- General Liability:
 - General Aggregate: \$2,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Each Occurrence \$1,000,000

- Fire Damage (any one fire) \$ 50,000
- Medical Expense (any 1 person) \$ 5,000
- Workers' Compensation:
 - Workers' Compensation Statutory Limits
 - EL Each Accident \$1,000,000
 - EL Disease - Policy Limit \$1,000,000
 - EL Disease - Each Employee \$1,000,000
- Automobile Liability
 - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 13.4. General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.
- 13.5. Worker's Compensation Insurance.** Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Contractor will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 13.6. Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 13.7. Professional Liability Insurance.** If the Contractor is performing any surveying, engineering, architectural, or other design work for the project, Contractor shall provide proof of Professional Liability insurance in the amounts described above. If such work is not included in the Scope of Services, or required by a change order, Professional Liability Insurance shall not be required.
- 13.8. Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be

maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

13.9. Additional Insured Endorsements. The City, its City Council, Commissions, officers, and employees of South Pasadena must be endorsed as an additional insured for each policy required herein, other than for Professional Liability if required, for liability arising out of ongoing and completed operations by or on behalf of the Contractor. Contractor's insurance policies shall be primary as respects any claims related to or as the result of the Contractor's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or Contractors shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.

13.10. Failure to Maintain Coverage. In the event any policy is canceled prior to the completion of the project and the Contractor does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Contractor under this Agreement. Failure of the Contractor to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.

13.11. Notices. Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Contractor shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Contractor shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of South Pasadena, Attn: Sheila Pautsch, Community Services Department, South Pasadena, CA 91030.

13.12. Contractor's Insurance Primary. The insurance provided by Contractor, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or

volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

13.13. Waiver of Subrogation. Contractor hereby waives all rights of subrogation against the City. Contractor shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.

13.14. Report of Claims to City. Contractor shall report to the City, in addition to the Contractor's insurer, any and all insurance claims submitted to Contractor's insurer in connection with the services under this Agreement.

13.15. Premium Payments and Deductibles. Contractor must disclose all deductibles and self-insured retention amounts to the City. The City may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Contractor shall be responsible for all premiums and deductibles in all of Contractor's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

13.16. Duty to Defend and Indemnify. Contractor's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

14. MUTUAL COOPERATION

14.1. City Cooperation in Performance. City shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Contractor's services under this Agreement.

14.2. Contractor Cooperation in Defense of Claims. If any claim or action is brought against City relating to Contractor's performance in connection with this Agreement, Contractor shall render any reasonable assistance that City may require in the defense of that claim or action.

15. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Contractor's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City:

Sergio Gonzalez
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
Telephone: (626) 403-7240
Facsimile: (626) 403-7241

If to Contractor:

Marty Gonzales
10040 Painter Avenue
Santa FE Springs, CA 90670
Telephone: (562) 941-9244

With courtesy copy to:

Teresa L. Highsmith, Esq.
South Pasadena City Attorney
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Ste. 850
Los Angeles, CA 91101
Telephone: (213) 542-5700
Facsimile: (213) 542-5710

16. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.12 (Records), paragraph 11.4 (Indemnification of CalPERS Determination), Section 12 (Indemnity), paragraph 13.8 (Claims-Made Policies), paragraph 14.2 (Contractor Cooperation in Defense of Claims), and paragraph 19.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

17. TERMINATION

- 17.1. City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Contractor. Contractor agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.
- 17.2. Contractor Termination.** Contractor may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.
- 17.3. Compensation Following Termination.** Upon termination, Contractor shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the services required by this Agreement. The

City shall have the benefit of such work as may have been completed up to the time of such termination.

- 17.4. **Remedies.** City retains any and all available legal and equitable remedies for Contractor's breach of this Agreement.

18. INTERPRETATION OF AGREEMENT

- 18.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 18.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Contractor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and Contractor.
- 18.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.
- 18.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 18.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 18.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

19. GENERAL PROVISIONS

- 19.1. Confidentiality.** All data, documents, discussion, or other information developed or received by Contractor for performance of this Agreement are deemed confidential and Contractor shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 19.2. Conflicts of Interest.** Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 19.3. Non-assignment.** Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Contractor.
- 19.4. Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 19.5. No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 19.6. Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 19.7. Non-Discrimination.** Contractor shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.

- 19.8. Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Contractor unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Contractor of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 19.9. Excused Failure to Perform.** Contractor shall not be liable for any failure to perform if Contractor presents acceptable evidence, in City's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Contractor.
- 19.10. Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 19.11. No Award of Attorneys' Fees.** In the event of a dispute between the parties arising out of the terms of this Agreement, including any action brought to declare the rights granted herein or to enforce any of the terms of this Agreement, the party prevailing in such dispute shall not be entitled to attorneys' fees from the other party. This provision takes precedence over any conflicting provision in any of the documents which are incorporated herein by reference.
- 19.12. Venue.** The venue for any litigation shall be Los Angeles County, California and Contractor hereby consents to jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of South Pasadena

“Contractor”
Castlerock Environmental, Inc.

By: _____
Signature

By: _____
Signature

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

By: _____
City Clerk

Date: _____

Approved as to form:

By: _____
Teresa L. Highsmith, City Attorney

Date: _____

NON-COLLUSION AFFIDAVIT

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], _____[state].”

Non-Collusion Affidavit

WORKER'S COMPENSATION INSURANCE ACKNOWLEDGEMENT

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.' If any class of employees engaged in work under this contract at the site of the Project is not protected under any Worker's Compensation law, Contractor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Contractor shall indemnify and hold harmless City for any damage resulting from failure of either Contractor or any subcontractor to take out or maintain such insurance.

[Name and Title]

[Date]

Exhibit A
Scope of Services


<p>Scope of Work: Provide regulatory agency notifications, engineering controls, labor, supervision, supplies and materials to complete removal, stabilization, packaging, transportation, and disposal of the following hazardous materials to be impacted:</p> <ul style="list-style-type: none"> • Asbestos-containing brown floor tile underneath carpet inside of the 1st Floor Living Room & Dining Room (~775 SF) • Stabilize (remove) loose & flaky lead-based paint from the wood window frames and casing, plaster walls and ceilings within the 1st Floor Kitchen (~675 SF) • Remove lead-based sink w/ associated wood cabinetry from within the Kitchen (~45 LF) • Asbestos-containing <1% plaster inside of the 1st Floor Kitchen behind the wood cabinetry (~200 SF) • Stabilize (remove) loose & flaky lead-based paint from the wood cabinetry and ceilings within the 1st Floor Hallway Restroom (~300 SF) • Stabilize (remove) loose & flaky lead-based paint from the concrete walls, wood walls, ceilings, window sills and countertop within the Sun Room (~1,400 SF) • Stabilize (remove) loose & flaky lead-based paint from the wood floor, doors, casing, ceiling, and plaster walls within the 2nd Floor Balcony (~1,125 SF) • Asbestos-containing off white/red material on the counter at the 2nd Floor Balcony (~10 SF) • Stabilize (remove) loose & flaky lead-based paint from the wood cabinetry, plaster walls and ceilings within the 2nd Floor Hallway Restroom (~300 SF) • Stabilize (remove) loose & flaky lead-based paint from the wood window frames, casing, walls and ceilings within the 2nd Floor Kitchen (~675 SF) • Remove lead-based sink w/ associated wood cabinetry from within the Kitchen (~45 LF) • Asbestos-containing <1% plaster inside of the 2nd Floor Kitchen behind the wood cabinetry (~200 SF) • Stabilize (remove) loose & flaky lead-based paint from the exterior stucco walls and wood components (~2,500 SF) • Remove water damaged / mold contaminated window base from the Stairwell Transition w/ associated drywall from the east & west ends of the North Wall (~10 SF) • Lead paint stabilization includes removal of only the loose & flaky lead-containing paint. Rough surfaces are feathered out and sanded to a smooth finish. Lead block encapsulate is applied afterwards which also acts as a primer. So areas will be left paint ready. <p>Permits & Fees Included: AQMD (Asbestos), Cal-OSHA (Asbestos/Lead), CDPH (Lead)</p> <p>PROJECT DURATION: Scope of work to be completed in seven (7) shifts over one (1) mobilization.</p>	<p>BASE BID LUMP SUM PRICE</p> <p>\$ 39,345.00</p>
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Memo

Date: March 15, 2017

To: Honorable Mayor and Members of the City Council

Via: Sergio Gonzalez, City Manager

From: Desiree Jimenez, Deputy City Clerk 

Re: March 15, 2017 City Council Meeting, Additional Document for Item No. 19 -
Authorize a Letter of Support for Senate Bill 589 Regarding Municipal Storm Sewer
Systems

Attached for your reference is a Financial Capability Analysis provided to the City of South Pasadena from the Office of Senator Ed Hernandez (22nd District) regarding Senate Bill 589 Municipal Separate Storm Sewer Systems.

CC: Council; CM; CA; CCC; DEPT; Reference Binder; Original to 3/15/2017 Addl Docs

Additional Material
AGENDA ITEM # 19
3/15/17 City Council Mtg.

California State Senate

STATE CAPITOL
ROOM 2080
SACRAMENTO, CA 95814
TEL (916) 651-4022
FAX (916) 651-4922

SENATOR
ED HERNANDEZ, O.D.
TWENTY-SECOND SENATE DISTRICT

100 S. VINCENT AVENUE
SUITE 401
WEST COVINA, CA 91790
TEL (626) 430-2499
FAX (626) 430-2494



Senate Bill 589 Municipal Separate Storm Sewer Systems: Financial Capability Analysis

Purpose

Senate Bill 589 would amend the California Porter-Cologne Water Quality Control Act (Act) to include United States Environmental Protection Agency (EPA) Financial Capability Assessment (FCA) policy. The EPA's Guidance for FCA establishes a process where water boards and municipalities can assess the financial capability of the community to implement integrated water management plans for drinking water, sanitary sewer, flood control and stormwater. It considers site-specific factors and other metrics that allows for flexible compliance schedules. SB 589 does not alter or waive water quality standards, but offers alternative compliance pathways for municipalities and for disadvantaged communities.

Background

The Federal Clean Water Act (CWA) was initially adopted in 1948 and reorganized in 1972. The CWA contains requirements for counties and municipalities to obtain National Pollution Discharge Elimination Discharge System (NPDES) permits to operate their Municipal Separate Storm Sewer Systems, known as MS4 permits. Many local governments are also required to implement the Total Maximum Daily Load (TMDL) program which establishes water quality standards and compliance schedules. Counties and municipalities must also comply with the Safe Drinking Water Act and other regulations for the operation of drinking water and waste water systems.

The Act was adopted by the State in 1969. The Act authorized the State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards (RWQCBs) to implement federal and state water quality regulations. An MS4 permit serves as a license to discharge stormwater into receiving waters, are revocable, and enforceable.

EPA first adopted financial capability analysis factors in 1997. The agency revised the FCA policy in November 2014 to develop a framework to aid in negotiating schedules of compliance when communities are faced with implementing multiple water quality requirements. The FCA process is designed to assist the water boards and the MS4

permittee in prioritizing water quality improvements after a careful consideration of the financial capability of the community.

The U.S. Conference of Mayors (Mayors) worked with EPA to revise the FCA policy. As part of the revision process the Mayors conducted an affordability survey that examined the financial capability of a diverse group of California cities.

Based on the survey results, the Mayors released *Public Water Cost Per Household: Assessing Financial Impacts of EPA Affordability Criteria in California Cities* urging EPA to exercise greater flexibility when imposing water quality mandates on communities. Integrated water quality requirements of drinking water, sanitary sewer, flood control and storm water programs require significant investments. These costs can often compete with other public services provided by local governments, including the provision of law enforcement, fire and paramedics, traffic and transportation infrastructure, street and road repairs, maintenance of parks and open spaces, along with other programs. The study reviewed over 30 California cities, to EPA's affordability criteria under the CWA, and found that many of the communities are paying greater than 4.5% of Medium Household Income on water costs which include water, sewer and flood control programs. This creates what EPA considers a "high burden" on the average household. This study was completed prior to the implementation of the most recent MS4 permit, which could result in additional financial burdens. A number of metrics are used by EPA to determine whether the community's financial burden was low, medium or high. Since communities are site specific and vary on economic strength, staffing capacity, infrastructure and geotechnical challenges, greater flexibility is needed.

Summary

SB 589 will codify EPA's November 2014 FCA policy and assist the water boards and the permittees to consider alternative compliance pathways when communities are addressing the integrated utilities of drinking water, sanitary sewer, flood control and storm water programs. SB 589 will not alter or waive water quality standards, but offer sustainable compliance options for MS4 permittees and for disadvantaged communities.

Contact

Susan Reyes, Legislative Aide
Susan.Reyes@sen.ca.gov