

Memo

Carmichael



RECREATION AND
PARK DISTRICT

To: Advisory Board Directors

From: Mike Blondino, District Administrator
Ingrid Penney, Administrative Services Manager
James Perry, Park Services Manager

Date: May 16, 2024

Subject: 2022 Bond Series 2023 Program; Approval of RFPs and Contract Award for Landscape Architectural Design Services for Carmichael Park, La Sierra Community Center, Cardinal Oaks Park and Glancy Oaks Park

Introduction/Discussion:

The 2022 Bond Measure G approved by voters provides funding for various park and facility improvements. In Series 2023, allocations have been made for projects at Carmichael Park, La Sierra Community Center, Cardinal Oaks Park, and Glancy Oaks Park, several which require the services of Landscape Design Architects, with subcontractors in the following disciplines:

Architecture, Civil/Structural/Mechanical/Electrical/Geotechnical Engineering, SWPPP Consultants and other required consultants to assist in the design of the improvements.

With the 2021 Master Plan, 2016 Deferred Maintenance Plan, and ADA Transition Plan as a guide and creation of a consultant pool, the Cumming Management Group (CM), on behalf of CRPD, initiated a solicitation process by sending the RFPs to the consultant pool for landscape design services. The CRPD received proposals from five firms. Three firms were selected for interview. The interview panel consisted of Vice Chair Ives and Director Leavitt, CM project team, and the CRPD management team.

Proposals received from the following Consultants:

Firms not Interviewed by the Panel:

- Gates + Associates; Cardinal Oaks Park, Carmichael Park, and Glancy Oaks Park
- Helix; Glancy Oaks Park

These two firms that did not make the short list for an Interview because their fee proposals were exceptionally higher than the others.

Firms Interviewed by the Panel

- Callendar Associates Landscape Architecture, Inc. (CALA); Cardinal Oaks Park, Carmichael Park, and Glancy Oaks Park
- MTW Group; Cardinal Oaks Park, Carmichael Park, Glancy Oaks Park, and La Sierra Community Center
- WDSLALLC, dba Wilson Design Studio Landscape Architecture; Cardinal Oaks Park and Glancy Oaks Park

These firms were Interviewed by the Panel, based on the evaluation criteria below:

- Project Approach
- Project team organization
- Fee Proposal

Interview Results:

The panel selected the following firms based on the proposals, interview and evaluation criteria for the listed projects:

MTW Group:

Carmichael Park

Veteran's Memorial Building Playground Replacement, Phases I & II of Paving Upgrades, New Outdoor Restroom near the tennis courts, and Pickleball Courts (converting 2 tennis courts into 6 pickleball courts)

La Sierra Community Center

Task #1 – Natural Turf Soccer Filed

Task #2 – Canopy Roofing and HVAC (Phases I-IV)

(MTW was the only consultant that provided a proposal for the La Sierra Community Center. MTW has the qualifications and experience to take on the listed projects.)

CALA:

Cardinal Oaks Park

Move existing Play Area (new equipment), ADA paths/walkways, drinking fountain, security/pedestrian lighting, and parking lot

WDSLALLC:

Glancy Oaks Park

Playground replacement (new equipment), ADA paths/walkways, and drinking fountain.

The Consultants will work with the Cumming Management Group (CM), CRPD Staff and Community to develop design options, cost estimates, and schedule towards a final design, plans and specs, and final project schedule and cost estimates.

Financial Analysis:

CM has validated Cost Estimates for each Project for

- Soft costs (Design, PM Fees, and Contingency)
- Construction and Contingency
- Escalation

Series 2023 Projects, Original Projection based on Cashflow provided by CM and Proposal/Contract amounts:

- Carmichael Park, \$142k (10% of Construction Budget)
Proposal/Contract amount: \$114,925
- La Sierra Community Center, \$282,630 (~8% of Construction Budget)
Proposal/Contract amount: \$261,755
- Cardinal Oaks Park, No projection was available since it was originally planned outside of Series 2023; however, CALA's proposal aligned with other projections falling within 8-12% of the Construction Budget
Proposal/Contract amount: \$174,415.50
- Glancy Oaks Park, \$37,400 (10% of Construction Budget)
Proposal/Contract amount: \$81,635

Aggregate Savings: \$3,715

Recommendation:

The Ad-Hoc Committee, Staff, and CM recommend approving the proposals and awarding the following Contracts to the specified design firms for the Series 2023 CIP Program; delegate authority to the District Administrator or designee to execute the Contracts.

- a. Carmichael Park, Contract #24-0013 to MTW Group, Inc., in an amount not to exceed \$114,925, Design for: Veteran's Memorial Building demolition of existing playground and new playground, Phases I & II of paving upgrades, new outdoor restroom, and converting 2 tennis courts into 6 pickleball courts
- b. La Sierra Community Center, Contract #24-0014 to MTW Group, Inc., in an amount not to exceed \$261,755, Design for: Task #1 – natural turf soccer field, drainage, and irrigation and Task #2 – canopy areas roofing and HVAC Phases I-IV (up to \$358k HVAC Upgrades)
- c. Cardinal Oaks Park, Contract #24-0015 to Callander Associates Landscape Architecture, Inc. (CALA) in an amount not to exceed \$174,415.50, Design for: demolition and grading of existing play area, new playground, ADA - paths/walkways, drinking fountain, security/pedestrian lighting, and parking Lot
- d. Glancy Oaks Park, Contract #24-0016 to WDSL A, in an amount not to exceed \$81,635, Design for: demolition and grading of existing play area, new playground, ADA – paths/walkways, and drinking fountain.

**AGREEMENT BETWEEN
CARMICHAEL RECREATION AND PARK DISTRICT AND
[CONSULTING FIRM NAME] TO PERFORM
SITE SURVEYING SERVICES**

THIS AGREEMENT is made and entered into as of this ___ of _____, 2024, by and between the CARMICHAEL RECREATION AND PARK DISTRICT, a park district existing under authority of Public Resources Code § 5780 et seq., hereinafter referred to as "DISTRICT", and [Consulting Firm Name], a [Entity Type], hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, the DISTRICT is the owner and operator of [Location(s)] hereinafter referred to as PARKs; and

WHEREAS, the DISTRICT desires to obtain the services of a consultant to provide [Type of Service] for PARKs; and

WHEREAS, CONTRACTOR has the necessary qualifications, experience, technical facilities, i.e., [types of qualifications] and personnel to accomplish the objectives set forth;

WHEREAS, pursuant to Government Code Section 31000, the DISTRICT is authorized to contract for specific special services with persons specially trained, experienced and competent to perform such services;

WHEREAS, pursuant to Resolution #2017-0010, the Sacramento County Board of Supervisors authorized DISTRICT to execute construction agreements; and

WHEREAS, DISTRICT and CONTRACTOR desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, DISTRICT and CONTRACTOR agree as follows:

I. SCOPE OF SERVICES

CONTRACTOR shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

II. TERM

This Agreement shall be effective and commence as of the date written above and shall end on [TERMINATION DATE]. The DISTRICT shall have [separate year(s) option to extend the Term]. If DISTRICT elects to extend the Term,

[Consultant Name]

DISTRICT will provide notice to CONTRACTOR at least 30 days prior to the expiration of the Term, or extended Term, as the case may be.

III. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO DISTRICT

CARMICHAEL RECREATION &
PARK DISTRICT
5750 Grant Avenue
Carmichael, CA 95608
Attn: Mike Blondino

TO CONTRACTOR

[Consultant Names].
[Street Address]
[City, State, Zip]
Attn:

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

IV. COMPLIANCE WITH LAWS

CONTRACTOR shall observe and comply with all applicable federal, State, and County laws, regulations and ordinances.

V. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

VI. LICENSES, PERMITS AND CONTRACTUAL GOOD STANDING

- A. CONTRACTOR shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by DISTRICT. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by DISTRICT.
- B. CONTRACTOR further certifies to DISTRICT that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in

[Consultant Name]

federal, State or County government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

VII. PERFORMANCE STANDARDS

CONTRACTOR shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONTRACTOR'S services.

VIII. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONTRACTOR hereunder shall be the exclusive property of DISTRICT and shall be delivered to DISTRICT upon completion of the services authorized hereunder. CONTRACTOR may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by DISTRICT. DISTRICT recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of CONTRACTOR'S services and are not designed for use other than what is intended by this Agreement.

IX. STATUS OF CONTRACTOR

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR'S employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONTRACTOR'S assigned personnel shall not be entitled to any benefits payable to employees of DISTRICT. DISTRICT is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement; and as an independent contractor, CONTRACTOR hereby indemnifies and holds DISTRICT harmless from any and all claims that may be made against DISTRICT based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- B. It is further understood and agreed by the parties hereto that CONTRACTOR in the performance of its obligation hereunder is subject to the control or direction of DISTRICT as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONTRACTOR for accomplishing the results.
- C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or

[Consultant Name]

any other terms of employment or requirements of law, shall be determined by CONTRACTOR, and the DISTRICT shall have no right or authority over such persons or the terms of such employment.

- D. It is further understood and agreed that as an independent contractor and not an employee of DISTRICT, neither the CONTRACTOR nor CONTRACTOR'S assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligation whatsoever. CONTRACTOR shall not be covered by worker's compensation; nor shall CONTRACTOR be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the DISTRICT to employees of the DISTRICT.
- E. It is further understood and agreed that CONTRACTOR must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONTRACTOR'S assigned personnel under the terms and conditions of this Agreement.
- F. It is further understood and agreed that if CONTRACTOR'S project manager or key personnel cease employment with CONTRACTOR during the term of this Agreement, DISTRICT reserves the right to approve the proposed replacement personnel (via interview and reference checks) and to terminate this Agreement if not satisfied with those personnel.

X. CONTRACTOR IDENTIFICATION

CONTRACTOR shall provide the DISTRICT with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: CONTRACTOR'S name address, telephone number, social security number, and whether dependent health insurance coverage is available to CONTRACTOR.

XI. COMPLIANCE WITH CHILD, FAMILY AND SPOUSAL SUPPORT REPORTING OBLIGATIONS

- A. CONTRACTOR'S failure to comply with state and federal child, family and spousal support reporting requirements regarding a CONTRACTOR'S employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations shall constitute a default under this Agreement.
- B. CONTRACTOR'S failure to cure such default within 90 days of notice by DISTRICT shall be grounds for termination of this Agreement.
- C. If CONTRACTOR has a Principal Owner, CONTRACTOR shall provide Principal Owner information to the DISTRICT upon request. Principal Owner is defined for

[Consultant Name]

purposes of this Agreement as a person who owns an interest of 25% or more in the CONTRACTOR. Information required may include the Principal Owner's name, address, and social security number. Failure to provide requested information about a Principal Owner within 60 days of request shall be deemed a material breach of this contract and may be grounds for termination.

XII. BENEFITS WAIVER

If CONTRACTOR is unincorporated, CONTRACTOR acknowledges and agrees that CONTRACTOR is not entitled to receive the following benefits and/or compensation from DISTRICT: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to regular employees pursuant to the County Charter, the Sacramento County Employees' Retirement System (SCERS) and/or any and all memoranda of understanding between DISTRICT and its employee organizations. Should CONTRACTOR or any employee or agent of CONTRACTOR seek to obtain such benefits from DISTRICT, CONTRACTOR agrees to indemnify and hold harmless DISTRICT from any and all claims that may be made against DISTRICT for such benefits.

XIII. RETIREMENT BENEFITS/STATUS

CONTRACTOR acknowledges and agrees that DISTRICT has not made any representations regarding entitlement, eligibility for and/or right to receive ongoing SCERS retirement benefits during the term of this Agreement. By entering into this Agreement, CONTRACTOR assumes sole and exclusive responsibility for any consequences, impacts or action relating to such retirement benefits that is or will be occasioned as a result of the services provided by CONTRACTOR under this Agreement. CONTRACTOR waives any rights to proceed against DISTRICT should SCERS modify or terminate retirement benefits based on CONTRACTOR'S provision of services under this Agreement.

XIV. CONFLICT OF INTEREST

CONTRACTOR and CONTRACTOR'S officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

XV. LOBBYING AND UNION ORGANIZATION ACTIVITIES

- A. CONTRACTOR shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations.

[Consultant Name]

- B. If services under this Agreement are funded with state funds granted to DISTRICT, CONTRACTOR shall not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and shall comply with the provisions of Government Code Sections 16645 through 16649.

XVI. RESERVED

XVII. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONTRACTOR agrees and assures DISTRICT that CONTRACTOR and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of DISTRICT, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of DISTRICT employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONTRACTOR represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONTRACTOR agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.
- D. CONTRACTOR shall include this nondiscrimination provision in all subcontracts related to this Agreement.

XVIII. INDEMNIFICATION

To the fullest extent permitted by law, for work or services provided under this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless, the CARMICHAEL RECREATION AND PARK DISTRICT, the COUNTY OF SACRAMENTO, and CUMMING MANAGEMENT GROUP, INC., their governing Boards, officers, directors, officials, employees, and authorized volunteers and agents (each an "Indemnified Party," and collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages,

[Consultant Name]

and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, expert fees, and reasonable attorneys' fees, resulting from injuries to or death of any person, including employees of either party hereto, and damage to or destruction of property, or loss of use or reduction in value thereof, including the property of either party hereto, and recovery of monetary losses incurred by the Indemnified Parties directly attributable to the performance of CONTRACTOR, to the extent arising out of, pertaining to, or relating to the gross negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, CONTRACTOR'S subcontractors at any tier, or any other party for which CONTRACTOR is legally liable under law.

The right to defense and indemnity under this section arises upon occurrence of an event giving rise to a claim and tendered in writing to CONTRACTOR. CONTRACTOR shall defend Indemnified Parties with counsel reasonably acceptable to the Indemnified Parties.

Notwithstanding the foregoing, the parties expressly agree that CONTRACTOR'S defense obligation under this indemnity obligation shall require CONTRACTOR to defend the Indemnified Parties until any of the following occur: (1) the judgment has become final by a Court of Competent Jurisdiction, (2) other mutually agreeable dispute resolution or settlement process establishing the proportionate percentage of fault of the parties under law. In the event that fault is apportioned between the Indemnified Parties and CONTRACTOR, CONTRACTOR'S final cost of defense shall not exceed its proportionate percentage of fault. To the extent that CONTRACTOR'S cost of defense exceeds its proportionate percentage of fault, the Indemnified Parties shall reimburse CONTRACTOR. If requested by the Indemnified Parties, CONTRACTOR agrees to participate, at its own expense, in the defense of a Claim to provide testimony or to produce documents or other relevant information.

To the extent permitted by law, this indemnity obligation shall not be limited by the types and amounts of insurance or self-insurance maintained by CONTRACTOR or CONTRACTOR'S subcontractors at any tier.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Contractor or the Contractor's Subcontractors.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

XIX. INSURANCE

Without limiting CONTRACTOR'S indemnification, CONTRACTOR shall maintain in force at all times during the term of this Agreement and any extensions or modifications thereto, insurance as specified in Exhibit B. It is the responsibility of CONTRACTOR to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit B. It is understood and agreed that DISTRICT shall not pay any sum to CONTRACTOR under this Agreement unless and until DISTRICT is satisfied that all insurance required by this Agreement is in force at the time services hereunder are rendered. Failure to maintain insurance as required in this Agreement may be grounds for material breach of contract.

XX. INFORMATION TECHNOLOGY ASSURANCES

CONTRACTOR shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONTRACTOR in the performance of services under this Agreement, other than those owned or provided by DISTRICT, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to DISTRICT under this Agreement.

XXI. COMPENSATION AND PAYMENT FOR SERVICE LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit C, or Exhibit C as modified by DISTRICT in accordance with express provisions in this Agreement.
- B. CONTRACTOR shall submit an invoice on the forms and in accordance with the procedures prescribed by DISTRICT monthly. Invoices shall be submitted to DISTRICT no later than the fifteenth (15th) day of the month following the invoice period, and DISTRICT shall pay CONTRACTOR within thirty (30) days after receipt of an appropriate and correct invoice.
- C. DISTRICT operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by DISTRICT unless CONTRACTOR has obtained prior written DISTRICT approval to the contrary.
- D. CONTRACTOR shall maintain for four (4) years following termination of this Agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.

[Consultant Name]

- E. In the event CONTRACTOR fails to comply with any provisions of this Agreement, DISTRICT may withhold payment until such non-compliance has been corrected.

XXII. RESERVED

XXIII. SUBCONTRACTS, ASSIGNMENT

- A. CONTRACTOR shall obtain prior written approval from DISTRICT before subcontracting any of the services delivered under this Agreement. CONTRACTOR remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONTRACTOR shall be held responsible by DISTRICT for the performance of any subcontractor whether approved by DISTRICT or not.
- B. This Agreement is not assignable by CONTRACTOR in whole or in part, without the prior written consent of DISTRICT.

XXIV. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon DISTRICT unless agreed in writing by Administrator and counsel for DISTRICT.

XXV. SUCCESSORS

This Agreement shall bind the successors of DISTRICT and CONTRACTOR in the same manner as if they were expressly named.

XXVI. TIME

Time is of the essence of this Agreement.

XXVII. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

[Consultant Name]

Agreement for [Type] Services

XXVIII. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. Pending resolution of any such dispute, CONTRACTOR shall continue without delay to carry out all its responsibilities under this Agreement unless the Agreement is otherwise terminated in accordance with the Termination provisions herein. DISTRICT shall not be required to make payments for any services that are the subject of this dispute resolution process until such dispute has been mutually resolved by the parties. If the dispute cannot be resolved within 15 calendar days of initiating such negotiations or such other time period as may be mutually agreed to by the parties in writing, either party may pursue its available legal and equitable remedies, pursuant to the laws of the State of California. Nothing in this Agreement or provision shall constitute a waiver of any of the government claim filing requirements set forth in Title 1, Division 3.6, of the California Government Code or as otherwise set forth in local, State and federal law.

XXIX. TERMINATION

- A. DISTRICT may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by DISTRICT to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).
- B. DISTRICT may terminate this Agreement for cause immediately upon giving written notice to CONTRACTOR should CONTRACTOR materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, DISTRICT may proceed with the work in any manner deemed proper by DISTRICT. If notice of termination for cause is given by DISTRICT to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. DISTRICT may terminate or amend this Agreement immediately upon giving written notice to CONTRACTOR, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof, including if distribution of such funds to the DISTRICT is suspended or delayed; 2) if funds for the services and/or programs provided pursuant to this Agreement are not appropriated by the State; 3) if funds in DISTRICT'S yearly proposed and/or final budget are not appropriated by DISTRICT for this Agreement or any portion thereof; or 4) if funds that were previously appropriated for this Agreement are

[Consultant Name]

Agreement for [Type] Services

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reduced, eliminated, and/or re-allocated by DISTRICT as a result of mid-year budget reductions.

- D. If this Agreement is terminated under paragraph A or C above, CONTRACTOR shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, CONTRACTOR shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of CONTRACTOR covered by this Agreement, less payments of compensation previously made. In no event, however, shall DISTRICT pay CONTRACTOR an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.
- E. CONTRACTOR shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONTRACTOR can legally cancel.

XXX. REPORTS

CONTRACTOR shall, without additional compensation therefor, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by ADMINISTRATOR concerning CONTRACTOR'S activities as they affect the contract duties and purposes herein. DISTRICT shall explain procedures for reporting the required information.

XXXI. AUDITS AND RECORDS

Upon DISTRICT'S request, DISTRICT or its designee shall have the right at reasonable times and intervals to audit, at CONTRACTOR'S premises, CONTRACTOR'S financial and program records as DISTRICT deems necessary to determine CONTRACTOR'S compliance with legal and contractual requirements and the correctness of claims submitted by CONTRACTOR. CONTRACTOR shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon DISTRICT'S request at DISTRICT'S expense. DISTRICT shall have the right to withhold any payment under this Agreement until CONTRACTOR has provided access to CONTRACTOR'S financial and program records related to this Agreement.

XXXII. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between DISTRICT and CONTRACTOR regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between DISTRICT and CONTRACTOR regarding the subject matter of this Agreement are hereby terminated effective

[Consultant Name]

Agreement for [Type] Services

immediately upon full execution of this Agreement.

XXXIII. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

XXXIV. FORCE MAJEURE

Neither CONTRACTOR nor DISTRICT shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

XXXV. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

XXXVI. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

XXXVII. AUTHORITY TO EXECUTE

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement for or on behalf of the parties to this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized.

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[Consultant Name]

Agreement for [Type] Services

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

Carmichael Recreation & Park District, a park district existing under authority of Public Resources Code § 5780 et seq.

[Consultant Name]
[Type of Entity]
CA License No []

By: _____
Mike Blondino, District Administrator

By: _____
[AUTHORIZED SIGNER]
[TITLE]

Date: _____

Date: _____

CONTRACT AND CONTRACTOR TAX STATUS
REVIEWED AND APPROVED BY COUNTY COUNSEL

By: Diane McElhern, Deputy County Counsel

Date:

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**EXHIBIT A to Agreement
between the CARMICHAEL RECREATION AND PARK DISTRICT,
hereinafter referred to as "DISTRICT",
and UNICO ENGINEERING, INC.,
hereinafter referred to as "CONTRACTOR"**

SCOPE OF SERVICES

I. SERVICE LOCATION

Facility Name(s):
Street Address:
City and Zip Code:

II. SCOPE

- A. CONTRACTOR agrees to perform [Scope of Services]
- B. The DISTRICT'S Administrator, or designee, may negotiate with CONTRACTOR and approve reasonable modifications in tasks, work products, schedules, milestones, and staff assignments so long as such modifications are within the general scope of services provided under this Agreement, do not exceed the Maximum Total Payment Amount, and are determined to be in the best interest of DISTRICT.

III. SCHEDULE

CONTRACTOR shall perform the services in an expeditious manner in accordance with a mutually acceptable schedule developed between DISTRICT and CONTRACTOR.

IV. RESPONSIBILITIES OF DISTRICT AND CONTRACTOR FOR SCOPE

- A. DISTRICT, or its authorized representatives, shall review all documents submitted by CONTRACTOR and render decisions pertaining thereto as promptly as is reasonable under the circumstances at the time in order to avoid unreasonable delay of the progress of CONTRACTOR. DISTRICT shall furnish information and services as required by this Agreement and shall render approvals and decisions as expeditiously as is reasonably necessary under the circumstances at the time for the orderly progress of the CONTRACTOR'S services and of the project.
- B. CONTRACTOR shall be solely responsible for the quality and accuracy of its work and the work of its Subcontractors performed in connection with this Agreement. Any review, approval, or concurrence therewith by the DISTRICT

[Consultant Name]

Exhibit A

shall not be deemed to constitute acceptance or waiver by the DISTRICT of any error or omission as to such work. CONTRACTOR shall coordinate the activities of any Subcontractors and is responsible to ensure that all plans, drawings, and specifications are coordinated and interface with the other applicable plans, drawings, and specifications to produce a unified, workable, and acceptable whole functional product.

V. AUTHORITY OF CONTRACTOR PERFORMING SCOPE OF WORK

CONTRACTOR is retained to provide and perform the scope of services covered by this Agreement. CONTRACTOR, including CONTRACTOR'S assigned personnel, shall have no authority to represent DISTRICT or DISTRICT staff at any meetings of public or private agencies unless an appropriate DISTRICT official provides prior written authorization for such representation which outlines the purpose, scope and duration of such representation. CONTRACTOR shall possess no authority or right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligations whatsoever. DISTRICT is responsible for making all policy and governmental decisions related to the work covered by this Agreement.

VI. PUBLICATION OF DOCUMENTS AND DATA

CONTRACTOR shall not publish, or disclose to any third party, documents, data, or any confidential information relative to the work of the DISTRICT without the prior written consent of DISTRICT, however, submission or distribution to meet official regulatory requirements, or for other purposes authorized by this Agreement, shall not be construed as publication in derogation of the rights of either the DISTRICT or CONTRACTOR.

VII. PROJECT PERSONNEL

In the performance of the services hereunder, CONTRACTOR shall provide the personnel as set forth as proposed. Any change in such personnel or reassignment in their project responsibilities must be agreed to in writing by the Administrator or his authorized representative before any such change may be made. Key contacts for this project shall be as follows:

DISTRICT: NAME: James Perry, Park Service Manager
 PHONE: 916-416-3765
 E-MAIL: jperry@carmichaelpark.com

CM: **NAME:** Charlie Long, Assistant Project Manager
PHONE: (916) 779-7151
E-MAIL: Charles.long@cumming-group.com

CONTRACTOR: NAME:
PHONE:
E-MAIL:

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**EXHIBIT B to Agreement
between the CARMICHAEL RECREATION AND PARK DISTRICT,
hereinafter referred to as "DISTRICT",
and [Consultant Name],
hereinafter referred to as "CONTRACTOR"**

INSURANCE REQUIREMENTS FOR CONTRACTORS

Without limiting CONTRACTOR'S indemnification, CONTRACTOR shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the CONTRACTOR, its agents, representatives or employees. DISTRICT shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the DISTRICT Risk Manager, insurance provisions in these requirements do not provide adequate protection for DISTRICT and for members of the public, DISTRICT may require CONTRACTOR to obtain insurance sufficient in coverage, form and amount to provide adequate protection. DISTRICT'S requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

I. VERIFICATION OF COVERAGE

CONTRACTOR shall furnish the DISTRICT with certificates evidencing coverage required below. **Copies of required endorsements must be attached to provided certificates.** The DISTRICT Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of the DISTRICT and the general public are adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by the DISTRICT before performance commences. The DISTRICT reserves the right to review complete copies of any policy of insurance offered in compliance with these specifications.

II. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- A. **GENERAL LIABILITY:** Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by the DISTRICT Risk Manager.
- B. **AUTOMOBILE LIABILITY:** Insurance Services Office's Commercial Automobile Liability coverage form CA 0001.

1. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.
 2. Personal Lines automobile insurance shall apply if vehicles are individually owned.
- C. WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.
- D. PROFESSIONAL LIABILITY or Errors and Omissions Liability insurance appropriate to the CONTRACTOR'S profession.
- E. UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.

III. MINIMUM LIMITS OF INSURANCE

CONTRACTOR shall maintain limits no less than:

- A. General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$5,000,000
Products Comp/Op Aggregate:	\$5,000,000
Personal & Adv. Injury:	\$5,000,000
Each Occurrence:	\$5,000,000

- B. AUTOMOBILE LIABILITY:

1. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$2,000,000 Combined Single Limit.
2. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.

- C. WORKERS' COMPENSATION: Statutory.

- D. EMPLOYER'S LIABILITY: \$1,000,000 per accident for bodily injury or disease.

- E. PROFESSIONAL LIABILITY or ERRORS AND OMISSIONS LIABILITY:

[Consultant Names]

Exhibit B

\$2,000,000 per claim and aggregate.

IV. DEDUCTIBLES AND SELF-INSURED RETENTION

Any deductibles or self-insured retention that apply to any insurance required by this Agreement must be declared and approved by the DISTRICT.

V. CLAIMS MADE PROFESSIONAL LIABILITY INSURANCE

If professional liability coverage is written on a Claims Made form:

- A. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by CONTRACTOR.
- B. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
- C. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

VI. OTHER INSURANCE PROVISIONS

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provision:

- A. All Policies:
 - 1. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII. The DISTRICT Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of the DISTRICT and the general public are adequately protected.
 - 2. MAINTENANCE OF INSURANCE COVERAGE: The CONTRACTOR shall maintain all insurance coverages and limits in place at all times and provide the DISTRICT with evidence of each policy's renewal within ten (10) after its anniversary date.

CONTRACTOR is required by this Agreement to immediately notify DISTRICT if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. CONTRACTOR shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been

replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

VII. COMMERCIAL GENERAL LIABILITY AND/OR COMMERCIAL AUTOMOBILE LIABILITY

- A. **ADDITIONAL INSURED STATUS:** The DISTRICT, the County of Sacramento, the Cumming Management Group, Inc., and their governing Boards, officers, directors, officials, employees, and volunteers and agents (each an “Additional Insured Party,” and collectively “Additionally Insured Parties”), are to be included as additional insureds as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no endorsed limitations on the scope of protection afforded to the Additionally Insured Parties.
- B. **PRIMARY INSURANCE:** For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be endorsed to be primary insurance as respects any insurance or self-insurance maintained by the Additionally Insured Parties. Any insurance or self-insurance maintained by the Additionally Insured Parties shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
- C. **SEVERABILITY OF INTEREST:** The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- D. **SUBCONTRACTORS:** CONTRACTOR shall be responsible for the acts and omissions of all its subcontractors and additional insured endorsements as provided by CONTRACTOR'S subcontractor.

VIII. WORKERS' COMPENSATION

Workers' Compensation Waiver of Subrogation: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the DISTRICT, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the CONTRACTOR. Should CONTRACTOR be self-insured for workers' compensation, CONTRACTOR hereby agrees to waive its right of subrogation against DISTRICT, its officers, directors, officials, employees, agents or volunteers.

IX. PROFESSIONAL LIABILITY

[Consultant Names]

Exhibit B

PROFESSIONAL LIABILITY PROVISION: Any professional liability or errors and omissions policy required hereunder shall apply to any claims, losses, liabilities, or damages, demands, and actions arising out of or resulting from professional services provided under this Agreement.

X. NOTIFICATION OF CLAIM

If any claim for damages is filed with CONTRACTOR or if any lawsuit is instituted against CONTRACTOR, that arise out of or are in any way connected with CONTRACTOR'S performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect DISTRICT, CONTRACTOR shall give prompt and timely notice thereof to DISTRICT. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

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**EXHIBIT C to Agreement
between the CARMICHAEL RECREATION AND PARK DISTRICT,
hereinafter referred to as "DISTRICT",
and [Consutant Names],
hereinafter referred to as "CONTRACTOR"**

BUDGET REQUIREMENTS

I. MAXIMUM PAYMENT TO CONTRACTOR

The Maximum Total Payment Amount under this Agreement is \$_____.

Reimbursable expense allowance is based on [BASIS DELINEATED]

II. COMPENSATION COMPONENTS

Includes the labor, materials and supplies to perform contracted services.

Information outlined in the Proposal

III. ITEMIZED TASKS AND SUBTASKS

If CONTRACTOR'S Proposal contains a schedule of tasks or subtasks with identified levels of effort such as estimated hours and/or estimated costs, or identifiable work products, milestones, or other events, then compensation for these individual tasks or activities shall not exceed the identified estimate or other limiting factors without the written approval of DISTRICT. CONTRACTOR shall promptly notify DISTRICT in writing of any tasks, subtasks, work products, or milestones that need to be reevaluated and indicate the reason and/or justification for such reevaluation. DISTRICT'S Project Manager is authorized to negotiate adjustments of individual tasks so long as the work is within the general scope of the project and the total compensation does not exceed the Maximum Total Payment Amount under this Agreement listed above.

IV. WORK NOT IN SCOPE OF SERVICES

CONTRACTOR shall immediately notify the DISTRICT'S Project Manager in writing of any work that the DISTRICT requests to be performed that CONTRACTOR believes is outside of the original scope of work covered by this Agreement. If it is determined that said request is outside of the scope of work, such work shall not be performed unless and until the Administrator approves such request in writing and authorizes the use of any contingency funds for such work, or an amendment providing for an adjustment in CONTRACTOR'S compensation is approved and executed by both parties.

V. NOTIFICATION OF 75% EXPENDITURE OF COMPENSATION

[Consultant Name]

Exhibit C

CONTRACTOR shall notify DISTRICT'S Project Manager in writing upon expenditure of seventy-five percent (75%) of the authorized Agreement amount. Such notice shall identify the percentage of funds expended, the percentage of work completed, an explanation of any variation between these two (2) percentages, and an assessment of the cost of the remaining work to be performed.

VI. SUBMISSION OF INVOICES

CONTRACTOR shall address and submit all invoices associated with this Agreement by U.S. mail or personal delivery to the following address:

Carmichael Recreation and Park District
5750 Grant Avenue
Carmichael, CA 95608
Attn: Accounts Payable

CONTRACTOR shall include the following information on all invoices:

Contract Number: **24-xxxx**
Project Name:
Date of Invoice Submission
Time Period Invoice Covers
Services Provided and Respective Compensation Requested
Any other information deemed necessary by CONTRACTOR and/or DISTRICT.

DISTRICT may change the address to which subsequent invoices shall be sent by giving written notice designating a change of address to CONTRACTOR, which shall be effective upon receipt.

VII. PAYMENTS

In accordance with the Compensation and Payment of Invoices Limitations provision of this Agreement, DISTRICT shall address and submit payments to CONTRACTOR at the following address:

CONTRACTOR may change the address to which subsequent payments shall be sent by giving written notice designating a change of address to DISTRICT, which shall be effective upon receipt.

VIII. STANDARD SCHEDULE OF HOURLY RATES

All rates are subject to renegotiation on an annual basis.

A. Hourly Rates: Outlined in the Proposal