

CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT COMMISSION OF THE
CITY OF SOUTH GATE APPROVING THE AGREEMENT FOR
PROFESSIONAL SERVICES WITH THE REYNOLDS GROUP
RELATED TO ENVIRONMENTAL CONDITIONS AT 3500-3506
TWEEDY BOULEVARD; AUTHORIZING THE TRANSMITTAL
OF THE AGREEMENT TO THE OVERSIGHT BOARD FOR
REVIEW AND APPROVAL AND THEN TO THE STATE
DEPARTMENT OF FINANCE PURSUANT TO THE
DISSOLUTION LAW**

WHEREAS, the Community Development Commission of the City of South Gate ("Former Agency") was a public body, corporate and politic formed, organized, existing and exercising its powers pursuant to Section 34100, *et seq.* of the California Health and Safety Code, and exercised the powers, authority, functions, jurisdiction of a community redevelopment agency formed, organized, existing and exercising its powers pursuant to the California Community Redevelopment Law, Health and Safety Code, Section 33000, *et seq.*, and specifically formed by the City Council ("City Council") of the City of South Gate ("City"); and

WHEREAS, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 and other subsequent legislation, including Senate Bill 107 (together, the "Dissolution Law"); and

WHEREAS, as of February 1, 2012 the Former Agency was dissolved pursuant to the Dissolution Law, and as a separate public entity, corporate and politic the Successor Agency to the Community Development Commission of the City of South Gate ("Successor Agency") administers the enforceable obligations of the Former Agency and otherwise unwinds the Former Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Law; and

WHEREAS, under Section 34181, as amended by Senate Bill 107, the Successor Agency prepared and the DOF approved its Long Range Property Management Plan ("LRPMP"); and

WHEREAS, one of the properties that the Successor Agency has retained and that will be offered for sale and sold by the Successor Agency at market rate, with the proceeds of the sale

to be distributed by the Los Angeles County Auditor-Controller in accordance with the Dissolution Law, is a parcel of real property currently improved and used as a parking lot that is located at a common address of 3500-3506 Tweedy Boulevard, South Gate, California ("Property"); and

WHEREAS, the Property is contaminated with hazardous materials and is the subject of an enforcement action by the Los Angeles Regional Water Quality Control Board: *Directive to Take Corrective Action Re Underground Storage Tank Release at 3500-3506 Tweedy Boulevard, South Gate, California (LARWQCB Case No. R-23710) ("Remediation Work")*; and

WHEREAS, the Successor Agency has solicited a proposal for the Remediation Work and desires to enter into an *Agreement for Professional Services* ("Agreement" or "PSA") with The Reynolds Group, a California corporation ("Consultant") to undertake such work but as limited by monies approved by the DOF and allocated to the Successor Agency therefor; and

WHEREAS, the Agreement will be submitted to the Oversight Board for review and approval, and then will be provided to the DOF for its review and approval; and

WHEREAS, the Successor Agency staff will cause to be posted this Resolution, including the Agreement, on the City's website (<http://www.cityofsouthgate.org/247/Successor-Agency>).

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

SECTION 2. Pursuant to the Dissolution Law, the Successor Agency approves the Agreement with The Reynolds Group submitted herewith as Exhibit No. 1.

[Remainder of page left blank intentionally]

SECTION 3. The Successor Agency authorizes and directs transmittal of the Agreement to the Oversight Board for review and approval, and then to the DOF once reviewed and approved by the Oversight Board.

SECTION 4. The City Manager/Executive Director or his authorized designee is directed to post this Resolution on the City's website (<http://www.cityofsouthgate.org/247/Successor-Agency>) pursuant to the Dissolution Law.

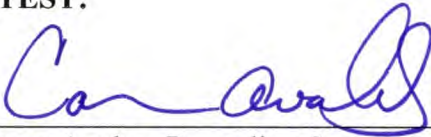
SECTION 5. The Recording Secretary of the Successor Agency shall certify to the adoption of this Resolution which shall be effective upon its adoption.

PASSED, APPROVED AND ADOPTED this 23rd day of August 2016.



W.H. (Bill) De Witt, Chair
Successor Agency to the Community Development
Commission of the City of South Gate

ATTEST:



Carmen Avalos, Recording Secretary
Successor Agency to the Community Development
Commission of the City of South Gate

(SEAL)

APPROVED AS TO FORM:



Raul F. Salinas, General Counsel
Successor Agency to the Community Development
Commission of the City of South Gate

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION
OF THE CITY OF SOUTH GATE AND THE REYNOLDS GROUP
RELATED TO ENVIRONMENTAL CONDITIONS
AT 3500-3506 TWEEDY BOULEVARD, SOUTH GATE**

This **AGREEMENT FOR PROFESSIONAL SERVICES** ("Agreement") is made and entered into by and between the **SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF SOUTH GATE**, a public body ("Successor Agency") and **THE REYNOLDS GROUP**, a California corporation ("Consultant"). Each of the Successor Agency and Consultant are a "Party" and together referred to as the "Parties".

RECITALS

A. Successor Agency is a separate public body that exists under Parts 1.8 and 1.85, Division 24, Section 34160 and 34170, *et seq.*, respectively, of the California Health and Safety Code ("Dissolution Law"), in particular as set forth in Section 34173(g) thereof.

B. Successor Agency does not have the personnel able and/or available to perform the professional services required under this Agreement.

C. Successor Agency desires to contract out for professional environmental consulting services to be provided by The Reynolds Group as Consultant hereunder.

D. Consultant warrants to Successor Agency that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

E. Successor Agency desires to contract with Consultant to perform the services described in Attachment 1 to this Agreement, in phases as and when funding therefor is approved by the State of California, Department of Finance ("DOF") through the Recognized Obligation Payment Schedule ("ROPS") process under the Dissolution Law.

F. The Successor Agency's requested funding on ROPS 16-17AB was approved by the DOF in April 2016 to pay for eligible costs incurred during fiscal year 16-17AB (July 1, 2016 to June 30, 2017), which is part of the total estimated costs of \$1.1M to undertake and complete the environmental remediation of that certain real property that is currently improved as a parking lot and located at a common address of 3500-3506 Tweedy Boulevard, South Gate, California ("Property").

G. The Scope of Work, Attachment 1 (together, "Services") for fiscal year 2016-17 is attached to this Agreement and fully incorporated by this reference, and Consultant will more fully detail and itemize each phase of the Scope of Work as, if and when the DOF approves funding therefor through the ROPS process and under this Agreement, and approves, and continues to approve, listing of this Agreement and costs therefor as an enforceable obligation in implementation of ROPS line item No. 26.

NOW, THEREFORE, Successor Agency and Consultant agree as follows:

1.0 SCOPE OF CONSULTANT'S SERVICES. Consultant agrees to provide the services and perform the tasks set forth in the Scope of Work, Attachment 1 ("Services"). The Scope of Work and estimated costs therefor may be amended from time to time by the Executive Director of the Successor Agency and in this regard the Executive Director is hereby authorized to enter into one or more modifications or amendments to this Agreement consistent with a continued and progressive Scope of Work subject to and for which DOF reviews and approves funding in successive fiscal year(s) through the ROPS process.

2.0 TERM OF AGREEMENT. This Agreement will become effective after all of the following occur: (a) approval by the Successor Agency; (b) review and approval by the Oversight Board to the Successor Agency; and, (c) review and approval by the DOF, all under the Dissolution Law. The "Term" of this Agreement is one (1) year for the period July 1, 2016 to June 30, 2017, with such Term subject to one or more one-year extension(s) for one or more subsequent fiscal years, which shall coincide with a modified Scope of Work as described in Section 1.0 above and for which the DOF has reviewed and approved funding in each successive fiscal year(s) that the Successor Agency continues to own the subject Property and for which continued remediation work is required to continue, including work ordered or otherwise directed by the LARWQCB or other governmental agency with jurisdiction over the Property, but in no event shall the Term of the Agreement exceed a total of five (5) years, unless otherwise expressly extended and agreed to by both Parties or terminated by either Party as provided herein. Notwithstanding the above, the Successor Agency expressly reserves the right to terminate this Agreement with or without cause as provided in Section 6.1 below.

3.0 SUCCESSOR AGENCY AGENT. The Director of Community Development, for the purposes of this Agreement, is the contact person agent for Successor Agency in the performance hereof; provided however, as to modifications to the Scope of Work as described in Section 1.0 and the extension(s) to the Agreement described in Section 2.0 such modification(s) and extension(s) shall occur only with the written approval of the Executive Director of the Successor Agency (or in his discretion as submitted to and approved by the Successor Agency board). Otherwise, when other approval or authorization is required, Consultant understands that the Director of Community Development has the authority to provide that approval or authorization.

4.0 COMPENSATION FOR SERVICES. Successor Agency shall pay Consultant for its professional services rendered and costs incurred pursuant to this Agreement in accordance with Consultant's fees and costs schedule included in the Proposal, but expressly subject to and limited by the funding approved by the DOF and allocated to the Successor Agency through the ROPS process. In this regard, Consultant acknowledges and agrees that under the Dissolution Law, Successor Agency has no other source of funding and is otherwise prohibited from expending monies for DOF-approved enforceable obligations and costs incurred thereunder. Accordingly, Consultant also acknowledges and agrees that it bears the risks and costs associated with any delay by the DOF in approving consultant's fees and costs requested by the Successor Agency through the ROPS process. This Agreement is intended to be an enforceable obligation, but unless and until the DOF approves this Agreement as such the Successor Agency makes no representation or commitment regarding the validity of this contract or the compensation to Consultant by the Successor Agency for the Services rendered hereunder. No additional compensation shall be paid for any other expenses incurred

unless first approved by the Director of Administrative Services, and subject to the authority under the Dissolution Law.

4.1 Consultant shall submit to Successor Agency a bill for Services according to funding availability and the project schedule provided by Consultant. Successor Agency shall pay Consultant upon thirty (30) days of receipt of the invoice, subject to available DOF-approved and allocated funding.

4.2 No payment made by Successor Agency to Consultant, other than the final payment, shall be construed as an acceptance by Successor Agency of any work or materials, or as evidence of satisfactory performance by Consultant of its obligations under this Agreement.

4.3 Consultant agrees that it will not bill Successor Agency for travel time to and from South Gate while performing Services under this Agreement, including any additional services, if any, requested which fall outside of the Proposal and are otherwise approved as part of a Successor Agency enforceable obligation approved by the DOF under the Dissolution Law.

5.0 CONFLICT OF INTEREST. Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in any real property located in the City of South Gate ("City") that may be affected by the Services to be performed by Consultant under this Agreement. Consultant further represents that in performance of this Agreement, no person having such interest shall be employed by it.

5.1 Consultant represents that no City (or Successor Agency) employee or official has a material financial interest in Consultant's business. During the term of this Agreement and/or as a result of being awarded this contract, Consultant shall not offer, encourage or accept any financial interest in Consultant's business by any City (or Successor Agency) employee or official.

6.0 GENERAL TERMS AND CONDITIONS.

6.1 Termination by Successor Agency. Both the Executive Director of the Successor Agency and the Director of Community Development on behalf of the Successor Agency may terminate this Agreement, without cause, by giving the Consultant ten (10) days written notice of such termination and the effective date thereof.

6.2 Termination by Consultant. The Consultant may terminate this Agreement, without cause, by giving the Successor Agency ten (10) days written notice of such termination and the effective date thereof.

6.3 After Termination by a Party. In the event of such termination, all finished or unfinished documents, reports, photographs, films, charts, data, studies, surveys, drawings, models, maps, or other documentation prepared by or in the possession of Consultant under this Agreement shall be returned to Successor Agency. If Successor Agency terminates this Agreement without cause, Consultant shall prepare and shall be entitled to receive compensation pursuant to a close-out bill for Services rendered and fees incurred pursuant to this Agreement through the notice of termination, subject to available DOF-approved and allocated funding. If Consultant terminates this

Agreement without cause, Consultant shall be paid only for those Services completed in a manner satisfactory to Successor Agency, which shall not be unreasonably determined.

6.3.1 If Consultant or Successor Agency fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Consultant or Successor Agency violate any of the covenants, promises, or stipulations of this Agreement, Consultant or Successor Agency shall have the right to terminate this Agreement by giving written notice to the other Party of such termination and specifying the effective date of such termination. Consultant shall be entitled to receive compensation in accordance with the terms of this Agreement for any work satisfactorily completed hereunder, subject to available DOF-approved and allocated funding. Notwithstanding the foregoing, Consultants shall not be relieved of liability for damage sustained by virtue of any breach of this Agreement and any payments due under this Agreement may be withheld to off-set anticipated damages.

6.4 Non-Assignability. Consultant shall not assign or transfer any interest in this Agreement without the express prior written consent of Successor Agency, and, if necessary, the Oversight Board and/or DOF.

6.5 Non-Discrimination. Consultant shall not discriminate as to race, creed, gender, color, national origin or sexual orientation in the performance of its services and duties pursuant to this Agreement and will comply with all applicable laws, ordinances and codes of the Federal, State, County and City and other local governments.

6.6 Insurance. Consultant shall submit to Successor Agency certificates indicating compliance with the following minimum insurance requirements no less than one (1) day prior to beginning of performance under this Agreement.

(a) Workers' Compensation Insurance as required by law. Consultant shall require all subcontractors similarly to provide such workers' compensation insurance for their respective employees.

(b) Comprehensive general and automotive liability insurance protecting Consultant in amounts not less than \$1,000,000 for personal injury to any one person, \$1,000,000 for injuries arising out of one occurrence, and \$500,000 for property damages or a combined single limit of \$1,000,000. Each such policy of insurance shall:

(i) Be issued by a financially responsible insurance company or companies admitted or authorized to do business in the State of California or which is approved in writing by the City's risk management department or the City Attorney.

(ii) Name and list as additional insureds the City of South Gate and the Successor Agency and their elected and appointed officials, officers, employees, counsels and agents.

(iii) Specify its acts as primary insurance.

(iv) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy shall not be canceled except upon thirty (30) days prior written notice to the City of South Gate and the Successor Agency of such cancellation or material change."

(v) Cover the operations of Consultant pursuant to the terms of this Agreement.

6.7 Indemnification. Consultant agrees to indemnify, defend and hold harmless the City of South Gate and the Successor Agency and their elected and appointed officials, officers, employees, counsels and agents (together, "Indemnitees") for, from and arising or relating in any manner to any and all claims or actions of any kind asserted against any of the Indemnitees arising out of Consultant's (including Consultant's employees, representatives, products and subcontractors) performance, whether negligent or otherwise, under this Agreement, excepting only such claims or actions which may arise out of the sole, active and gross negligence or intentional misconduct of an Indemnatee, or a third party not acting on behalf of, at the direction of, or under the control of Consultant.

6.8 Compliance with Applicable Law. Consultant and Successor Agency shall comply with all applicable laws, ordinances and codes of the Federal, State, County, City and other government agencies with jurisdiction over the Services.

6.9 Independent Contractor. This Agreement is by and between Successor Agency and Consultant and is not intended, nor shall it be construed, to create the relationship of agency, servant, employee, partnership, joint venture or association, as between Successor Agency and Consultant.

6.9.1 Consultant shall be and remain an independent contractor and shall have no power to incur any debt or obligation for or on behalf of Successor Agency (or the City). Neither Successor Agency nor any of the Indemnitees shall have any control over the conduct of Consultant, or any of Consultant's employees, except as herein set forth, and Consultant expressly warrants not to, at any time or in any manner represent that it, or any of its agents, servants or employees are in any manner employees of the City (or Successor Agency), it being distinctly understood that Consultant is and shall at all times remain to Successor Agency a wholly independent contractor and Consultant's obligations to Successor Agency are solely such as are prescribed by this Agreement.

6.10 Copyright. No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of Consultant.

6.11 Legal Construction.

(a) This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California. And, Consultant expressly acknowledges and agrees this Agreement is subject to the Dissolution Law.

(b) This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions. Each and every provision of this Agreement shall be construed as though each of the Parties participated equally in the drafting of the same, and any rule of construction that a document is to be construed against the drafting Party shall not be applicable to this Agreement.

(c) The articles and sections, captions and headings herein have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

(d) Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

6.12 Counterparts. This Agreement may be executed in counterparts and as so executed shall constitute an Agreement which shall be binding upon all Parties herein.

6.13 Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of Successor Agency (and all Indemnitees) from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or the Services. Acceptance of payment shall be any negotiation of Successor Agency's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by Successor Agency shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by Successor Agency for any defect or error in the work prepared by Consultant, its employees, sub-consultants and agents.

6.14 Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during Successor Agency's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by Successor Agency, and the cost thereof shall be charged to Consultant.

6.15 Files. All files of Consultant pertaining to the Successor Agency and Services provided hereunder shall be and remain the property of Successor Agency. Consultant will control the physical location of such files during the term of this Agreement and shall be entitled to retain copies of such files upon termination of this Agreement.

6.16 Waiver; Remedies Cumulative. Failure by a Party to insist upon the performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand compliance by such other Party in the future. No waiver by a Party of a default or breach of the other Party shall be effective or binding upon such a Party unless made in writing by such Party, and no such waiver shall be implied from any omissions by a Party to take any action with respect to such

default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

6.17 Mitigation of Damages. In all such situations arising out of this Agreement, the Parties shall attempt to avoid and minimize the damages resulting from the conduct of the other Party.

6.18 Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6.19 Attorney's Fees. The Parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any Party hereto to enforce this Agreement, the prevailing Party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that Party or those Parties may be entitled.

6.20 Entire Agreement. This Agreement constitutes the whole agreement between Successor Agency and Consultant, and neither Party has made any representations to the other except as expressly contained herein. Neither Party, in executing or performing this Agreement, is relying upon any statement or information not contained in this Agreement. Any changes or modifications to this Agreement must be made in writing and appropriately executed by both Successor Agency and Consultant.

6.21 Notices. Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO SUCCESSOR AGENCY: Joe Perez
Director of Community Development
Successor Agency of South Gate
8650 California Avenue
South Gate, CA 90280
(323) 563-9529

With courtesy copies to: City Clerk
City Attorney
8650 California Avenue
South Gate, CA 90280

TO CONSULTANT:

F. Edward Reynolds, Jr., P.E.
520 W. 1st Street
Tustin, California 92780
714-730-5397

6.22 Warranty of Authorized Signatories. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the Party for whom he or she purports to sign.

6.23 Consultation with Attorney. Consultant warrants and represents that it has consulted with an attorney or knowingly and voluntarily decided to forgo such a consultation.

[Remainder of page left blank intentionally]

6.24 Interpretation against Drafting Party. Successor Agency and Consultant agree that they have cooperated in the review and drafting of this Agreement. Accordingly, in the event of any ambiguity, neither side may claim that the interpretation of the Agreement shall be construed against either Party solely because that Party drafted all or a portion of the Agreement, or the clause at issue.

This Agreement is approved by the Successor Agency on this 23rd day of August, 2016 at South Gate, California, but as provided, this Agreement is subject to the review and approval by the Oversight Board and then by the DOF.

SUCCESSOR AGENCY:

**SUCCESSOR AGENCY TO THE COMMUNITY
DEVELOPMENT COMMISSION OF THE CITY
OF SOUTH GATE**, a public body

W.H. (Bill) De Witt, Chair

ATTEST:

Carmen Avalos, Recording Secretary
Successor Agency to the Community Development
Commission of the City of South Gate

(SEAL)

APPROVE AS TO FORM:

Raul F. Salinas, Counsel
Successor Agency to the Community Development
Commission of the City of South Gate

CONSULTANT:

THE REYNOLDS GROUP
a California corporation

F. Edward Reynolds, Jr., P.E.

RESOLUTION CERTIFICATION PAGE

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS

CITY OF SOUTH GATE)

I, Carmen Avalos, City Clerk of the City of South Gate, California, hereby certify that the whole number of Members of the Successor Agency of said City is five; that Resolution No. 29 was adopted by the Successor Agency at their Regular Meeting held on August 23, 2016, by the following vote:

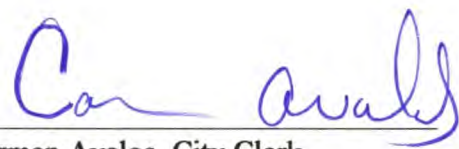
Ayes: Agency Members: De Witt, Davila, Bernal, Hurtado and Morales

Noes: Agency Members: None

Absent: Agency Members: None

Abstain: Agency Members: None

Witness my hand and the seal of said City on September 7, 2016.



Carmen Avalos, City Clerk
City of South Gate, California