

2020
CONTRACT SERVICES AGREEMENT

(Contractor: Herk Edwards, Inc.)

(Nature of Engagement: Purchase and Installation of Basketball Gymnasium
Equipment)

THIS CONTRACT SERVICES AGREEMENT (hereinafter, "Agreement") is made by and between the City of Bell Gardens, a municipal corporation (hereinafter, "City") and Herk Edwards, Inc. (hereinafter, "Contractor"). For the purposes of this Agreement, City and Contractor may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to City or Contractor interchangeably.

RECITALS

WHEREAS, City is a municipal corporation organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose; and

WHEREAS, City requires the purchase and installation of Basketball Gymnasium Equipment; and

WHEREAS, on May 12, 2020, City issued a Request for Proposals for Basketball Gymnasium Equipment; and

WHEREAS, City staff has determined that Contractor possess the skills, experience and expertise required to competently perform the services and tasks contemplated under this Agreement.

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

Section 1. Description of the Work.

- A. Subject to the terms and conditions of this Agreement, Contractor agrees to provide City with basketball gymnasium equipment and installation of such equipment. The various tasks and related services to be performed by Contractor are more specifically described in the City's "Request for Proposals for Basketball Gymnasium Equipment" (hereinafter the "City RFP") and the written proposal of Contractor entitled "Price Quotation Re: Gymnasium Equipment" (hereinafter, the "Contractor Proposal") dated July 16, 2020. The City RFP and the Contractor Proposal are attached and incorporated hereto as **Exhibits "A" and "B"** respectively. The term "Scope of Work" shall be a collective reference to the City RFP and the Contractor Proposal. The capitalized term "Work" shall be a collective reference to all the various services and tasks referenced in the Scope of Work. In the event of any conflict or inconsistency between the provisions of the document entitled City RFP and the provisions of the document entitled Contractor Proposal, the requirements of the document entitled City RFP shall govern and control but only to the extent of the conflict or inconsistency and no further. In the event of any conflict or inconsistency between the provisions of the Scope of Work

and the provisions of this Agreement to which the Scope of Work is attached, the provisions of this Agreement shall govern and control.

- B. Contractor shall provide all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the Work. Contractor shall perform the Work in accordance with the terms and conditions of this Agreement and in accordance with such other written or verbal directives as may be issued by City.
- C. Time is of the essence in the performance of Work under this Agreement, and in the absence of a specific schedule or other instructions from the City Representative, Contractor shall begin and complete performance of the Work to completion in as timely and a diligently a manner as possible.
- D. By executing this Agreement, Contractor warrants that Contractor: (i) has thoroughly investigated and considered the nature of the work, services and tasks to be performed under this Agreement; (ii) has carefully considered how the Work should be performed; and (iii) fully understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement. Contractor warrants that Contractor has or will investigate any location where the Work is to be performed and is or will be fully acquainted with the conditions there existing, prior to undertaking any service or task requested by City in the manner described under Section 3, below. Should the Contractor discover any latent or unknown conditions which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the City.
- E. In the event Contractor ceases to perform the Work agreed to under this Agreement or otherwise abandons any undertaking contemplated herein prior to completion and acceptance of the Work, Contractor shall deliver to City immediately and without delay, all materials, records and other work product prepared or obtained by Contractor in the performance of this Agreement. Furthermore, Contractor shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which City may incur as a result of Contractor's cessation or abandonment.

Section 2. [Reserved – No Text]

Section 3. Prosecution of Work.

The Parties agrees as follows:

- A. Contractor shall not perform any Work until the City issues a Notice to Proceed. The Work shall be commenced within three (3) calendar days of City's issuance of a Notice to Proceed and the Work shall be completed forty-five (45) working days

from the date of the issuance of the Notice to Proceed (hereinafter, the "Completion Date").

- B. Contractor may submit a written request for additional time to complete the Work, which request must be submitted to the City no later than fifteen (15) calendar days prior to the Completion Date or any extended Completion Date granted by City. The written request for additional time must identify (i) what specific tasks or services remain to be completed by Contractor in order to complete the Work; (ii) how much additional time Contractor requires; (iii) identification of the circumstances that have caused the need for additional time, according to Contractor, including, if applicable, identification of any tasks that must be completed by City as prerequisite to Contractor being able to complete any other service or task; and (iv) what proactive steps Contractor has taken up to the date of the request to mitigate the need for additional time, including, if applicable, any effort on the part of Contractor to alert City of the need to provide information or complete certain tasks to be performed by City. City in its sole and absolute discretion may grant, deny or conditionally grant a request for additional time, provided that no individual grant of additional time may exceed a maximum of thirty (30) calendar days.
- C. Contractor shall not claim or be entitled to receive any compensation or damage because of the failure of Contractor, or its subcontractors, to have related services or tasks completed in a timely manner.
- D. Contractor shall at all times enforce strict discipline and good order among Contractor's employees.

Section 4. Compensation.

- A. Contractor's total compensation during the term of this Agreement shall not exceed the total sum of **SEVENTY-THREE THOUSAND FIVE HUNDRED FIFTY-FIVE DOLLARS (\$73,555)** (hereinafter, the "Total Not-to-Exceed Sum"). Contractor further agrees that the Total Not-to-Exceed Sum is inclusive of compensation for all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the Work. Contractor shall have no right or entitlement to any overage contingency sums authorized by the City Council as part of the approval of this Agreement, unless the City Representatives authorize the expenditure of such overage contingency funds in writing in the City Representative's sole and absolute discretion.
- B. Following the conclusion of Work requested pursuant to Section 3 above, Contractor shall submit to City an itemized invoice indicating the services and tasks performed. If the amount of Contractor's compensation includes hours worked by Contractor's personnel, the invoice shall indicate the number of hours worked in connection with the specific service or task requested, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total

for all services performed. Within thirty (30) calendar days of receipt of each invoice, City shall notify Contractor in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar day of receipt of each invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Contractor.

Section 5. Standard of Care. Contractor represents, acknowledges and agrees as follows:

- A. Contractor shall perform all work skillfully, competently and to the highest standards applicable to the Contractor's field;
- B. Contractor shall perform all work in a manner reasonably satisfactory to the City;
- C. Contractor shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
- D. Contractor understands the nature and scope of the work to be performed under this Agreement as well as any and all schedules of performance;
- E. All of Contractor's employees and agents (including but not limited to Contractor's subcontractors and subconsultants) possess sufficient skill, knowledge, training and experience to perform those services and tasks contemplated under this Agreement; and
- F. All of Contractor's employees and agents (including but not limited to Contractor's subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement.

The Parties acknowledge and agree that Contractor shall perform, at Contractor's own cost and expense and without any reimbursement from City, any services or tasks necessary to correct any errors or omissions caused by Contractor's failure to comply with the standard of care set forth under this Section or by any like failure on the part of Contractor's employees, agents, Contractors, subcontractors and subconsultants. Such effort by Contractor to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the City Representative in writing and absolute discretion. The Parties acknowledge and agree that Contractor's acceptance of any work performed by Contractor or on Contractor's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that Contractor

has relied upon the foregoing representations of Contractor, including but not limited to the representation that Contractor possesses the skills, training, knowledge and experience necessary to perform the Work in a skillful and competent manner equivalent to, the standard of performance generally recognized as being employed by professionals performing the same type of work and services in the State of California.

Section 6. [Reserved – No Text].

Section 7. Contractor's Personnel

- A. Contractor represents that it has, or will secure at its own expense, all personnel required to perform the Work and all other services and tasks necessary for Contractor to competently and timely complete the improvements contemplated under this Agreement. All work, services and tasks will be performed under Contractor's supervision, and Contractor's personnel engaged in the performance of the work, services and tasks contemplated under this Agreement shall possess the qualifications, permits and licenses required by applicable law to perform such work, services and tasks.
- B. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the Work. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Work, and shall indemnify, defend and hold harmless City against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against City hereunder.
- C. Contractor shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the Work.
- D. In the event that City, in its sole reasonable discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement, Contractor shall remove any such person immediately upon receiving notice from City of the desire of City for the removal of such person or persons.
- E. Contractor shall be responsible for payment of all employees' and subconsultants' wages and benefits and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.
- F. Contractor shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the performance of the Work contemplated under this Agreement.

Section 8. [Reserved – No Text]

Section 9. Prevailing Wages and General Labor Compliance and Reporting.

- A. CONTRACTOR and any subcontractor performing or contracting any portion of the Work shall comply with all applicable provisions of the California Labor Code for all workers, laborers and mechanics of all crafts, classifications or types, including, but necessarily limited to the following:
1. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under this Contract. CONTRACTOR and any subcontractor shall pay workers overtime pay (not less than 1 1/2 times the base rate of pay) as required by California Labor Code Section 1815. CONTRACTOR and any subcontractor shall, as a penalty to the CITY, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation to the provisions of Article 3 of Chapter 1 of Part 7, Division 2 of the California Labor Code, which is incorporated by this reference as though fully set forth herein.
 2. Pursuant to the provisions of California Labor Code, Sections 1770 et. seq., CONTRACTOR and any subcontractor under CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Pursuant to the provisions of California Labor Code Section 1773.2, CONTRACTOR is hereby advised that copies of the prevailing rate of per diem wages and a general prevailing rate for holidays, Saturdays and Sundays and overtime work in the locality in which the work is to be performed for each craft, classification, or type of worker required to execute the Contract, are on file in the office of the District Secretary, which copies shall be made available to any interested party on request. CONTRACTOR shall post a copy of said prevailing rate of per diem wages at each job site.
- B. As required by Section 1773.1 of the California Labor Code, CONTRACTOR shall pay travel and subsistence payments to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with this Section.
- C. To establish such travel and subsistence payments, the representative of any craft, classification, or type of workman needed to execute the contracts shall file with the Department of Industrial Relations fully executed copies of collective bargaining agreements for the particular craft, classification or type of work involved. Such agreements shall be filed within ten (10) days after their execution and thereafter shall establish such travel and payments.
- D. CONTRACTOR shall comply with the provisions of Section 1775 of the California Labor Code and shall, as a penalty to CITY, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages for each craft, classification, or type of worker needed to execute the contract. CONTRACTOR shall pay each worker an amount equal to

the difference between the prevailing wage rates and the amount paid worker for each calendar day or portion thereof for which a worker was paid less than the prevailing wage rate. CONTRACTOR is required to pay all applicable penalties and back wages in the event of violation of prevailing wage law, and CONTRACTOR and any subcontractor shall fully comply with California Labor Code Section 1775, which is incorporated by this reference as though fully set forth herein.

- E. CONTRACTOR and any subcontractor shall maintain and make available for inspection payroll records as required by Labor Code Section 1776, which is incorporated by this reference as though fully set forth herein. CONTRACTOR is responsible for ensuring compliance with Labor Code Section 1776 and shall keep accurate payroll records containing all such information as maybe called for under Labor Code Section 1776 and other applicable provisions of State law.
- F. CONTRACTOR and any subcontractors shall, when they employ any person in any apprenticeable craft or trade, apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the work site for a certificate approving CONTRACTOR or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected; and shall comply with all other requirements of Section 1777.5 of the California Labor Code, which is incorporated by this reference as though fully set forth herein. The responsibility of compliance with California Labor Code Section 1777.5 during the performance of this contract rests with CONTRACTOR. Pursuant to California Labor Code Section 1777.7, in the event CONTRACTOR willfully fails to comply with the provisions of California Labor Code Section 1777.5, CONTRACTOR shall be denied the right to bid on any public works contract for up to three (3) years from the date noncompliance is determined and be assessed civil penalties.
- G. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860), and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the California Labor Code, CONTRACTOR is required to secure the payment of compensation to its employees and for that purpose obtain and keep in effect adequate Workers' Compensation Insurance and Employers Liability Insurance. If CONTRACTOR, in the sole discretion of the CITY satisfies the CITY of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, CONTRACTOR may so act, and in such case, the insurance required by this paragraph need not be provided. CONTRACTOR is advised of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and shall comply with such provisions and have Employer's General Liability limits of \$1,000,000 per accident before commencing the performance of the Work of this Contract. The Notice to Proceed with the Work under this Contract will not be issued, and CONTRACTOR shall not commence the Work, until CONTRACTOR submits written evidence that it has obtained full Workers' Compensation Insurance coverage for all persons whom it employs or may employ in carrying out the Work under this Contract. This insurance shall be in accordance with the requirements of the most current and applicable state Workers'

Compensation Insurance Laws. In accordance with the provisions of Section 1861 of the California Labor Code, CONTRACTOR in signing this Contract certifies to the CITY as true the following statement: "I am aware of the provisions of Section 3700 of the Labor Code which requires 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." A subcontractor is not allowed to commence Work on the project until verification of Workers' Compensation Insurance coverage has been obtained and verified by CONTRACTOR and submitted to the City Engineer for the CITY's review and records.

- H. In accordance with the provisions of Section 1727 of the California Labor Code, the CITY, before making payment to CONTRACTOR of money due under a contract for public works, shall withhold and retain therefrom all wages and penalties which have been forfeited pursuant to any stipulation in the contract, and the terms of Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). But no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Standards Enforcement or by the CITY.

Section 10. Prohibited Interests. Contractor warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for Consultant, to solicit or secure this Agreement. Further, Contractor warrants and represents 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. For breach or violation of this warranty, City shall have the absolute and unfettered right to rescind this Agreement without liability or penalty. 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.

Section 11. Independent Contractor.

- A. All acts of Contractor, its agents, officers, subcontractors and employees and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent Contractors and not as agents, officers, or employees of City. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Contractor has no authority or responsibility to exercise any rights or power vested in City. No agent, officer, or employee of City is to be considered an employee of Contractor. It is understood by both Contractor and City that this Agreement shall not, under any circumstances, be construed or considered to create an employer-employee relationship or a joint venture.

- B. Contractor, its agents, officers, subcontractors and employees are and, at all times during the term of this Agreement, shall represent and conduct themselves as independent Contractors and not as employees of City.
- C. Contractor shall determine the method, details and means of performing the Work. Contractor shall be responsible to City only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period as it provides services to City under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.
- D. If in the performance of this Agreement any third persons are employed by Contractor, such persons 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 any other term of employment or requirement of law shall be determined by the Contractor.
- E. It is understood and agreed that as an independent Contractor and not an employee of City neither the Contractor nor Contractor's assigned personnel shall have any entitlement as a City employee, right to act on behalf of City in any capacity whatsoever as an agent, or to bind City to any obligation whatsoever.
- F. As an independent Contractor, Contractor hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

Section 12. Conflicts of Interest. Contractor hereby warrants for itself, its employees, and subcontractors that those persons presently have no interest and shall not obtain any interest, direct or indirect, which would conflict in any manner with the performance of the services contemplated by this Agreement. No person having such conflicting interest shall be employed by or associated with Contractor in connection with this project. Contractor hereby warrants for itself, its employees, and subcontractors that no such person shall engage in any conduct which would constitute a conflict of interest under any City ordinance, state law or federal statute. Contractor agrees that a clause substantially similar to this Section shall be incorporated into any sub-contract that Contractor executes in connection with the performance of this Agreement.

Section 13. Non-Discrimination. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and

applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, Section 12990 et seq.) and the applicable regulations promulgated hereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

Section. 14. Indemnification.

- A. To the fullest extent permitted by law, Contractor hereby agrees, at its sole cost and expense, to defend, protect, indemnify, and hold harmless City and City's elected and appointed officials, officers, attorneys, agents, employees, volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Contractor or any of Contractor's officers, agents, servants, employees, subcontractors, materialmen, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to this Agreement and the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent active or passive negligence by Contractor and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law or elsewhere under this Agreement. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against any one or more of the Indemnitees shall be conclusive in favor of the Indemnitees' right to recover under this indemnity provision. Contractor shall pay Indemnitees for any attorney's fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitees' sole negligence or willful misconduct to the limited extent that the underlying Agreement is subject to Civil Code § 2782(a), or (b) the contracting public agency's active negligence to the limited extent that the underlying Agreement is subject to Civil Code § 2782(b). This indemnity is effective without reference to the existence or applicability of any insurance coverage(s) which may have been required under the Agreement or any additional insured endorsements which may extend to Indemnitees. Accountants, attorneys,

or other professionals employed by Indemnitor to defend Indemnitees shall be selected by Indemnitees. Contractor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent active or passive negligence by the Indemnitees.

- B. Contractor's obligations under this or any other provision of this Agreement will not be 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 the Indemnities.
- C. Contractor agrees to obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations for the benefit of City, Contractor agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged, intentional, reckless, negligent or otherwise wrongful acts, errors or omissions of Contractor or any of its officers, employees, servants, agents, subcontractors, volunteers or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.
- D. City does not, and shall not; waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense. Contractor agrees that Contractor's covenant under this Section shall survive the termination of this Agreement.
- E. Contractor shall fully comply with the workers' compensation laws regarding Contractor and Contractor's employees. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

Section 15. Insurance.

- A. Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:
 - 1. Commercial General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) for each occurrence and in the aggregate for any personal injury, death, loss or damage.
 - 2. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
 - 3. Worker's Compensation insurance as required by the State of California.
- B. Contractor shall require each of its sub-consultants or sub-Contractors to maintain insurance coverage that meets all of the requirements of this Agreement.
- C. The policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.
- D. Contractor agrees that if it does not keep the insurance required in this Agreement in full force and effect, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.
- E. Prior to commencement of work under this Agreement, Contractor shall file with City's Risk Manager a certificate or certificates of insurance showing that the insurance policies are in effect and satisfy the required amounts and specifications required pursuant to this Agreement.
- F. Contractor shall provide proof that policies of insurance expiring during the term of this Agreement 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.
- G. The general liability and automobile policies of insurance shall contain an endorsement naming City, its elected officials, officers, agents, employees, attorneys, servants, volunteers, successors and assigns as additional insureds. All of the policies shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days' prior written notice to City. Contractor agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

- H. The insurance provided by Contractor shall be primary to any other coverage available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.
- I. All insurance coverage provided pursuant to this Agreement shall not prohibit Contractor, and Contractor's employees, agents, subcontractors, or volunteers from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.
- J. Any deductibles or self-insured retentions must be approved by City. At the option of City, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.
- K. If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its managers, affiliates, employees, agents, and other persons necessary or incidental to its operation are insureds.
- L. Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duties to indemnify, hold harmless and defend under Section 15 of this Agreement.

Section 16. Records and Inspection. Contractor shall keep, and require subcontractors to keep, such books and records as shall be necessary to document the performance of the Work and enable the City to evaluate the performance the Work. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit, and make records and transcripts from such records. Such records shall be maintained for a period of four (4) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

Section 17. Termination.

- A. Termination for Convenience. City may immediately terminate this Agreement for convenience, without cause and without penalty or liability at any time upon the issuance of written notice to Contractor specifying the effective date of such termination. Such termination for convenience shall be made in writing signed by either the City. Contractor may only terminate this Agreement for cause.
- B. Termination for Cause. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall

specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth in this Section or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement. An Event of Default shall include, but shall not be limited to the following: (i) Contractor's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (ii) Contractor's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iii) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to Contractor, whether voluntary or involuntary; (iv) Contractor's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (v) City's discovery that a statement representation or warranty by Contractor relating to this Agreement is false or erroneous in any material respect, including any statement, representation or warranty set forth in the Equipment Specifications.

1. Contractor shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of City's issuance of a Default Notice for any failure of Contractor to timely provide City or City's employees or agents with any information and/or written reports, documentation or work product which Contractor is obligated to provide to City or City's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, Contractor may submit a written request for additional time to cure the Event of Default upon a showing that Contractor has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, City shall be under no obligation to grant additional time for the cure of an Event of Default under this subsection that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within thirty (30) calendar days of City's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 30-day cure period, Contractor may submit a written request for additional time to cure the Event of Default upon a showing that Contractor has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 30-day cure period. The foregoing notwithstanding, City shall be under no obligation to grant additional time for the cure of an Event of Default under this subsection that exceeds thirty (30) calendar days from the end of the initial 30-day cure period.

If an Event of Default relates to a material falsehood or misrepresentation set forth **Exhibit “B”** that is not susceptible to a cure, City in its sole and absolute discretion may elect to treat the falsehood or misrepresentation as a breach of this Agreement or waive the falsehood or misrepresentation. The foregoing notwithstanding, the prior waiver of a falsehood or misrepresentation as an Event of Default shall not operate as a waiver or any other falsehood or misrepresentation later discovered by City.

2. Except as otherwise specified in this Agreement, City shall cure any Event of Default asserted by Contractor within thirty (30) calendar days of Contractor’s issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 30-day cure period. Prior to the expiration of the 30-day cure period, City may submit a written request for additional time to cure the Event of Default upon a showing that City has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 30-day cure period. The foregoing notwithstanding, an Event of Default dealing with City’s failure to timely pay any undisputed sums to Contractor shall be cured by City within five (5) calendar days from the date of Contractor’s Default Notice to City.
3. City, in its sole and absolute discretion, may also immediately suspend Contractor’s performance under this Agreement (or the performance of any specific task or function performed by Contractor under this Agreement) pending Contractor’s cure of any Event of Default by giving Contractor written notice of City’s intent to suspend Contractor’s performance (hereinafter, a “Suspension Notice”). City may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, Contractor shall be compensated only for those services and tasks which have been rendered by Contractor to the reasonable satisfaction of City up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of City shall operate to prohibit or otherwise restrict City’s ability to suspend this Agreement as provided herein.
4. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
5. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to City at law or under this Agreement in the event of any breach of this Agreement, City, in its sole and absolute discretion, may also pursue any one or more of the following remedies:

- i. Upon written notice to Contractor, the City may immediately terminate this Agreement in whole or in part;
- ii. Upon written notice to Contractor, the City may extend the time of performance;
- iii. The City may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR's breach of the Agreement or to terminate the Agreement; or
- iv. The City may exercise any other available and lawful right or remedy.

Contractor shall be liable for all legal fees plus other costs and expenses that City incurs upon a breach of this Agreement or in the City's exercise of its remedies under this Agreement.

- 6. In the event City is in breach of this Agreement, Contractor's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to Contractor under this Agreement for completed services and tasks. 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.
- 7. No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

Section 18. Force Majeure. The Completion Date shall be extended in the event of any delays due to unforeseeable causes beyond the control of Contractor and without the fault or negligence of Contractor, including but not limited to severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within three (3) calendar days of the commencement of such delay notify the City in writing of the causes of the delay. The City shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the City such delay is justified. The City's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

Section 19. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (a) the day of delivery if delivered by hand or overnight

courier service during Contractor's and City's regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore below, or to such other addresses as the parties may, from time to time, designate in writing.

If to CITY:

City of Bell Gardens
7100 S. Garfield Ave.
Bell Gardens, California 90201
Attn: Rozanne Adanto, Director of
Recreation and Community Services

If to CONTRACTOR:

Herk Edwards
23822 Hawthorne Boulevard
Suite 201
Torrance, CA 90505
Attn: Richard Sivas
Phone: (310) 373-0543

Section 20. Prohibition. 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.

Section 21. Attorney Fees. In the event that City or Contractor commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover its costs of suit, including reasonable attorney's fees.

Section 22. Entire Agreement. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. Except as expressly provided in this Agreement or its Exhibits, in the event of any conflict or inconsistency between the express provisions of this Agreement and provisions of any document incorporated by reference, the provisions of this Agreement shall prevail and control. This instrument contains the entire Agreement between City and Contractor with respect to the subject matter herein. No other prior oral or written agreements are binding on the parties. Any modification of this Agreement will be effective only if it is in writing and executed by both City and Contractor.

Section 23. Governing Law; Jurisdiction. This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

Section 24. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

Section 25. Captions. The captions used in this Agreement are solely for reference and the convenience of the parties. The captions are not a part of the Agreement, in no way bind, limit, or describe the scope or intent of any provision, and shall have no effect upon the construction or interpretation of any provision herein.

Section 26. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BELL GARDENS

HERK EDWARDS, INC.

By: _____
Michael O'Kelly, City Manager

By: _____

Date: _____

Date: _____

Approved as to form:

By: _____
Rick Olivarez, City Attorney

EXHIBIT “A”

CITY RFP

Request for Proposals

Basketball Gymnasium Equipment



Contact Information:

Rozanne Adanto, Director of Recreation and Community Services
City of Bell Gardens
7100 Garfield Avenue
Bell Gardens, CA 90201
(562) 806-7650
radanto@bellgardens.org

Due Date:

On or before 4:00 p.m. on Thursday, May 28, 2020

Deliver to:

City Clerk's Office
7100 Garfield Avenue
Bell Gardens, CA 90201

I. INVITATION

The City of Bell Gardens ("City") is requesting proposals for providing Basketball gymnasium equipment.

Respondents to this Request for Proposal (RFP) should have extensive experience, a knowledgeable background, and strong qualifications in supplying and installing recreational athletic equipment. The selected individual and/or firm ("Consultant") will be required to interface with employees and managers in an approachable manner. All responses to the RFP must be complete in order to be considered and adhere to the details attached hereto as Exhibit A.

II. BACKGROUND INFORMATION

Since its incorporation on August 1, 1961, the City of Bell Gardens, located in the southeastern part of Los Angeles County and bordered by the City of Commerce, Downey, South Gate, and Bell, has grown from a population of approximately 4,000 to nearly 45,000. The City provides a high level of municipal services under the City Council/City Manager form of government. City departments include Recreation and Community Services, Public Works, Finance and Administrative Services, Community Development, Police, City Clerk, and the City Manager's Office.

John Anson Ford Park Pool and Community Building were built by Los Angeles County and opened in 1959. The City of Bell Gardens accepted the right to John Anson Ford Park from L.A. County on July 11, 1994. The gymnasium is located in the Recreation & Community Services building. In early 2001 the floor was stripped, sanded, and refinished by Champion Hardwood Floors. During the restrooms renovation of the RCS building in 2009, a broken waterline damaged a 10'x 8' section of the floor and we discovered that the floor's cork base had completely disbanded. The 80sqft section was replaced in. In 2017 the gym floor was on a list of Capital Improvements and was completely replaced (8,400 sf) by Roy's Hardware Flooring.

III. SCOPE OF SERVICES

The City of Bell Gardens desires to develop a strong partnership with a recreation athletic equipment supplier to purchase the following and install the following equipment in Exhibit A.

IV. SCHEDULE

The following is an outline of the anticipated schedule for the proposal review, contract award, and study. Schedule is subject to change:

RFP released.....	May 12, 2020
RFP Responses due.....	May 28, 2020
RFP Review (week of).....	June 1, 2020
Propose to City Council.....	June 22, 2020

V. RFP REQUIREMENTS

Responses to this request should include the following information:

1. Consultant name and/or business name, DBA (if applicable) and principal contact person, including office location, address, telephone number, fax number, and e-mail address.
2. Qualifications information, which demonstrates the knowledge, experience, and capability that will enable the respondent to provide the services outlined in the Scope of Services, including a brief description and history of the firm and/or individual including the number of years in business.
3. Provide a timeline for this process
4. Provide at least three references that can be contacted for verification of the respondents experience and qualifications. The references will be public agencies, for which you and/or your firm have provided classification and compensation services within the past three years. Identify similar process on which the respondent has worked, and contact information.
5. Indicate the total cost for procurement and installation the equipment provide the price of each component including optional services.

VI. PROCEDURES FOR SUBMISSION

Interested individuals and/or firms are invited to submit one (1) copy of their responses prior to **4:00 PM, Thursday, May 28, 2020**. Proposals should be submitted to:

**City Clerk's Office
7100 Garfield Avenue
Bell Gardens, CA 90201**

Submissions will not be accepted after the deadline.

All materials submitted in accordance with this RFP become the property of the City and will not be returned. If you have any questions regarding this RFP, please contact Rozanne Adanto at (562) 806-7650.

VII. REVIEW AND SELECTION CRITERIA

City staff will evaluate the materials provided in response to the Request for Proposal. In addition to cost, proposals will be evaluated utilizing the following criteria:

1. Understanding of the scope of work and the overall strategy for carrying out the needed work tasks to meet the goals.
2. Skills and experience of assigned personnel, availability of staff; experience and performance of Consultant on similar studies.
3. Consultant's expertise and ability to successfully handle communication with City staff relative to all phases of the process.
4. The present workload of the consultant and their ability to meet the proposed schedule.
5. Clarity of presentation and content of the responses to this request. Elaborate or costly submissions are not required.
6. Record of performance, including results of reference checks.
7. Proposed plan for completing the work in a timely and professional manner.

VIII. TERMS AND CONDITIONS

A. ACCEPTANCE OR REJECTION OF PROPOSAL

The City reserves the right to accept or reject any or all responses received in response to this request. The City also reserves the right to waive any informality, technical defect or clerical error or irregularity in any response. Additionally, the City may, for any reason, decide not to award an agreement based on this RFP. The City reserves the right to cancel this RFP. The City shall not be obligated to respond to any responses submitted, nor be legally bound in any manner by the submission of the response. The City reserves the right to negotiate deliverables and associated costs.

A. GENERAL DESCRIPTION OF PROPOSED AGREEMENT

Upon conclusion of the RFP process, the Administrative Services Manager will recommend an individual and/or firm to the City Manager and City Council to enter into negotiations for the proposal described. The recommended individual and/or firm will enter into contract negotiations with the City in substantial conformity with the selected proposal and the form of the City's standard Consulting Services Agreement (Exhibit B).

A. INSURANCE REQUIREMENTS

The selected Consultant, at Consultant's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain at least all of the insurance requirements outlined in the City's standard Consulting Services Agreement.

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City of Bell Gardens as to form and content. The selected Consultant agrees to provide the City with a copy of said policies, certificates and/or endorsements.

The selected Consultant shall satisfy these insurance requirements prior to approval of the Agreement. Please address any issues with respect to insurance requirements in your response to the proposal.

A. EXAMINATION OF PROPOSED MATERIAL

The submission of a response to this RFP shall be deemed a representation and certification by the Consultant that Consultant has read and understood the RFP, has investigated all aspects of the RFP, and is aware of the applicable facts pertaining to the RFP process, its procedures and requirements. No request for modification of the responses to this request shall be considered after its submission on grounds that the Consultant was not fully informed as to any facts or condition.

A. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFP become the exclusive property of the City. At such time as the Administrative Services Manager or City Manager recommends a Consultant to the City Council, all responses to the RFP received become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Consultant as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, The City of Bell Gardens may not be in a position to establish that the information that a Consultant submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City will provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

A DISQUALIFICATION

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a response to the RFP without further consideration:

- A Evidence of collusion, directly or indirectly, among Consultants in regard to the amount, terms, or conditions of this proposal;
- B Any attempt to improperly influence any member of the selection staff;
- C Existence of any lawsuit, unresolved contractual claim or dispute between Consultant and the City;

Evidence of incorrect information submitted as part of the RFP;

- D Evidence of Consultant's inability to successfully complete the responsibilities and obligations of the proposed scope of work; and
- E Consultant's default under any agreement, which results in termination of the Agreement.

7. NON-CONFORMING RESPONSE

A response shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of form or to a RFP may be sufficient grounds for non-acceptance of the response, at the sole discretion of the City.

8. NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT

The successful Consultant shall not discriminate, in any way, against any person based on race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, or any other protected classification in connection with or related to the performance of City of Bell Gardens contracts.

A. ADDITIONAL TERMS AND CONDITIONS

- A. It is anticipated that the award of the Agreement resulting from the RFP shall include terms and conditions similar to those referenced in the City's standard Consulting Services Agreement. Exceptions proposed by the Consultant, if any, to the terms and conditions included in the Consulting Services Agreement should be included in the response. The City reserves the right to consider any proposal exceptions during its evaluation of the acceptability of a response.
- B. This RFP does not commit the City to pay any costs incurred in the submission of the response or in making any necessary studies or analysis in preparation of submission of the response.
- C. The City reserves the right without limitation to:
 - 1. Execute an agreement with one or more Consultant based solely on the

- response to this RFP and any approved additions;
 - 2. Enter into an agreement with another Consultant in the event that the originally selected Consultant defaults or fails to execute an agreement with the City;
 - 3. Enter into negotiations with one or more Consultant;
 - 4. Modify and re-issue the RFP;
 - 5. Take action regarding the RFP deemed to be in the best interest of the City.
- D. The City reserves the right to verify any information provided during the RFP process. The City may contact references listed or any other person known to have contracted with Consultant.
- E. An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Consultant.

Exhibit A-SCOPE OF SERVICES

The following will be used as a guideline for the equipment and installation services to be provided.

PART 1 - GENERAL

1.01 SECTION INCLUDES

- (563) Upgrades of existing Basketball Backboards
- (564) Scoreboards and Shot Clocks
- (565) Protective Floor Covering

1.02 RELATED REQUIREMENTS

- J. Existing Structural Steel Framing
- K. Existing Basketball Equipment Structure
- B. Electrical Service
- E. Wiring: Connection of electric motors and controls.

1.03 SUBMITTALS

- II. Product Data: Manufacturer's data sheets and descriptive literature, including:
 - Descriptive literature.
 - Installation methods and instructions.
- JJ. Samples: Submit samples of products and materials where options of color, finish, pattern or texture exist
- KK. Operation and Maintenance Data: Submit manufacturer's operating and maintenance manuals and instructions including annual inspection and maintenance by a Professional Engineer of factory authorized service personnel.
- JJJ. Warranty: Submit manufacturer's warranty and ensure that all required forms have been completed in the City's name and registered with manufacturer.

1.04 WARRANTY

- V. Limited Guarantee: The manufacturer shall guarantee all work performed under these specifications to be free from defects for a period of one (1) year, plus additional warranties as follows:
 - Rectangular Glass Backboard: Limited Lifetime Warranty
 - Breakaway Goals: 2-Year Limited Warranty
 - Bolt-On Safety Edge Pad: 5-Year Limited Warranty
 - Gymnasium Floor Covering: 1-Year Limited Warranty
 - Scoreboards/Shot Clocks: 5-Year Limited Warranty (2-year Radios and 1-year Console AC adapter and internal battery)

PART 2 - PRODUCTS

2.01 MANUFACTURERS

A. Products of the following manufacturer form the basis of design and standard of quality:

1. Gymnasium Athletic Equipment: Performance Sports Systems, Noblesville, Indiana
2. Scoreboards and Shot Clocks: Everbrite All American Scoreboards, Pardeeville, WI
3. Protective Floor Covering: Putterman Athletic, Chicago, IL

2.02 BASKETBALL EQUIPMENT

- A. Rectangular Glass Backboard (6 each): PSS Model #AFRG42 - 42 inches high by 72 inches wide manufactured from 1/2" tempered glass set in heavy extruded aluminum framing and cushioned by shock absorbing vinyl. Official border and target area permanently fired into glass. Goal mounting structure shall be a heavy welded formed steel assembly, and directly attached to lower horizontal frame member to minimize stress on glass. Backboard shall have limited lifetime warranty against defects in material and workmanship, and when used with Performance Sports System's Direct Goal Attachment feature shall be protected against shatter and breakage of glass. Board must meet NCAA, FIBA and NFSA specifications.
- B. Backboard Edge Pad (6 each): PSS Model No. PMCE Bolt-On Cushion Edge, in one of ten (10) standard colors.
- C. Breakaway Goal (6 each): PSS Model No. 2500 Breakaway Goal with "Tube Tie" net attachment and shall be fabricated from 5/8" diameter cold drawn alloy steel round formed to an 18" inside diameter ring. Inside of ring shall be positioned 6" from face of backboard by heavy, formed steel hinged-type housing with removable cover to conceal mounting bolts and shock absorption mechanism of goal and to protect against finger entrapment. Goal shall be designed to absorb shock loads from slam dunking or hanging on rim and shall meet NCAA, FIBA and NFSA specification on moveable rims. Shock absorption feature shall be provided by means of a special offset hinge arrangement rim and back plate mounting housing with concealed molded rubber shock absorber. Goal shall be finished in durable, electrostatic powder coated official orange, and be furnished complete with heavy-duty white anti-whip nylon netting.
- D. Electric Winch (6 each): PSS Model No. 1194 Electric Backstop Winch, designed specifically for use of basketball backstop positioning. Winch shall be worm gear type designed to hold backstop at any position during operation. Winch will be driven by a 1 HP, 120-volt, 60 hertz, single-phase instant reversing electric motor with thermal overload protection (governed to stall at 14 amps to prevent overload) and manufactured to NEMA specifications. Winch shall utilize a flush mounted single keyed switch to both raise and lower backstop (eliminating the need for two keys). Key switch shall be located so that the backstop is in full view of authorized operator at all times. Electrical service, wiring and key switch box to be provided by others
- E. Backstop Auto Lock Safety Strap (6 each): Model No. 1100 Safstop safety strap shall be inertia sensitive to automatically lock basketball backstop in position at any time (in storage or during raising or lowering cycle) due to any sudden surge of speed created by possible malfunction(s) of hoisting apparatus, winch, cable, pulleys, support fittings, etc. Safety strap shall incorporate a two (2) inch wide nylon belt rated at 6,000 lbs. breaking strength. Entire unit to be tested to withstand 1,500 lb. free fall load and rated at 1000 lbs. Strap shall extend a maximum of 35'-0" and shall be automatically retracted and stored on a reel equipped with a special negator type constant force spring. Operation and locking action of strap shall be set by inertial force for immediate and positive setting, or centrifugal force to instantly lock basketball backstop

before unit can gain momentum. Unit shall incorporate a fully automatic reset requiring no poles, ropes, levers or buttons.

- F. Electric Goal Height Adjuster: Model No. 1171 Electric Adjust-A-Goal shall be manufactured of steel using an electrically operated linear actuator to raise and lower backboard from 8' to 10' above finished floor. Linear actuator shall be powered by a 115-volt single-phase motor and contain built in limit switches to ensure safe operation and positive stopping at 8' and 10' heights. Adjust-A-Goal features a direct goal attachment to transfers load of play directly through backboard to support structure. Adjust-A-Goal shall be operated with a flush mounted single keyed switch. Electrical service, wiring and key switch box to be provided by others

2.03 SCOREBOARDS AND SHOT CLOCKS

- A. Scoreboards (2 each): Model No. 8214C Multi-Sport scoreboard as manufactured by Everbrite All American Scoreboards. Scoreboard shall be 9'- 0" wide x 5'- 0" high with extruded aluminum frame and shatterproof polycarbonate face available in 9 standard colors. LED displays for Game Clock, Home and Visitor Scores, Timeouts Left, Team Fouls, Player Fouls, Period, Bonus/Double Bonus indicator, Possession indicator. Digit size shall be 14" for Clock, 12" Score, and 10" for all others. Possession and Bonus indicators shall be 2". Captions for Home & Guest (6"), Bonus, Possession, Period, Fouls Player/Fouls, Score and Match (3") and TOL (2.5"). Scoreboards shall be wirelessly operated from No. 8000 control console and shall display Time of Day clock when not connected to console.
- B. Shot Clocks (1 set): Model No. 8299 wall mounted shot timers, 2'- 0" high x 2'- 2" wide with extruded aluminum frame and shatterproof polycarbonate face available in 9 standard colors. Shot clocks shall incorporate 14" high LED digit display (0-99) and an 80dB internal horn. Shot Clocks shall be wirelessly operated from No. 8000 control console.
- C. Controller (2 each): Model 8000 Series Wireless Multisport Console, 6" high x 13.5" wide x 9" deep constructed of extruded aluminum with rubber end caps and shall incorporate a backlit LCD display and full keyboard with number pad. Console shall be 100% solid state and operate wirelessly via 2.4 GHz spread spectrum technology. Console shall include a plug-in wall power pack and an internal NiMH rechargeable battery with a 10-hour run time. Each controller shall be provided with slip sheets for each sport and a transport/storage case.

2.04 GYMNASIUM FLOOR COVERING

- A. Gymnasium Floor Covering (8 rolls): Putterman Athletic Model No. GFC 27 Gym Floor Cover constructed of mildew, mold and fire-retardant 100% laminated vinyl polyester, 1000 denier weighing 27 oz. with a tensile strength of 300 x 266 lbs./inch and a tear strength of 110 x 146 lbs. Floor covering shall be provided in rolls of 10 ft. x 100 ft. and available on four (4) standard colors.
- B. Mobile Storage Rack (1 each): Model No. GFCR8-KIT 8 Roll Rack/Cart with No. GFCTAP Clear Vinyl 6 mil Rubber Adhesive (1 case), No. GFCTDWB Walk-behind Tape Dispenser, No. GFPCW Portable Auto Power Winder, 110V for 8 Roll Rack, and No. 14 Crimped Black Ply 2.5" x 144" Brush with Aluminum Holder (2 each)

PART 3 - EXECUTION

3.01 INSPECTION

- A. Verification of Conditions: Verify areas to receive equipment are free of impediments interfering with installation and condition of installation substrates is acceptable to receive equipment in accordance with manufacturer's recommendations.

- B. Notify the City of any existing conditions or structures found to be inadequate, unsafe or insufficient for attachment of new equipment or components.
- C. Do not commence installation until conditions are satisfactory.

3.02 INSTALLATION

- A. Manufacturer's Recommendations: Comply with equipment manufacturer's recommendations for product installation requirements.
- B. General: Install Basketball backstops, gymnasium divider curtain and mat storage system in accordance with manufacturer's installation instructions and DSA submittal drawings. Provide accessories, anchors, fasteners, inserts and other items for permanent attachment to adjoining construction. Install all other equipment in accordance with manufacturer's recommendations.

3.03 ADJUSTMENTS

- A. Adjustments: After installation completion, test and adjust each item for smooth and proper operation in accordance with manufacturer's operations manual and recommendations.

3.04 CLEANING

- A. Cleaning: Clean installed equipment on both exposed and semi-exposed surfaces. Touch-up finishes restoring damage or soiled surfaces.
- B. Remove all debris from work site.

3.05 PROTECTION

- A. Provide final protection and maintain conditions, in a manner acceptable to manufacturer and installer to ensure equipment without damage or deterioration at time of substantial completion.

END OF SECTION

EXHIBIT B

CITY OF BELL GARDENS
CONTRACT AGREEMENT
FOR
JOHN ANSON FORD PARK BASKETBALL GYMNASIUM EQUIPMENT
IN THE CITY OF BELL GARDENS

THIS CONTRACT SERVICES AGREEMENT (hereinafter, "Agreement") is made and entered into this _____ day of _____ 2020 (hereinafter, the "Effective Date"), by and between the CITY OF BELL GARDENS, a municipal corporation (hereinafter, "City") and _____ (hereinafter, "Contractor"). For the purposes of this Agreement, City and Contractor may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to City or Contractor interchangeably.

WHEREAS, City is a municipal corporation organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose; and

WHEREAS, City desires to engage the services of a company to perform (describe services) services for the City's (Location); and

WHEREAS, City staff has determined that Contractor possesses the skills, experience and expertise necessary to complete required (services); and

WHEREAS, the execution of this Agreement was approved by the City of Bell Gardens Council at its Regular Meeting of _____, 2020.

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

Section 1. Term.

8. This Agreement shall commence on the Effective Date and shall have a Term of three (3) years. This Agreement may be extended by City subject to its same terms and conditions for two (2) additional extension terms of one (1) year, provided City issues written notice of its intent to extend the Term of the Agreement prior to the expiration of the initial Term.

9. Nothing in this Section shall operate to prohibit or otherwise restrict the

City's ability to terminate this Agreement at any time for convenience or for cause as provided under Section 5 of this Agreement.

Section 2. Scope of Work.

B. Subject to the terms and conditions of this Agreement, Contractor agrees to provide _____ services and tasks that are set forth in that certain request for proposal of the City entitled "Request for Proposal Basketball Gymnasium Equipment Contract" issued on (DATE) (the "City RFP Work Scope") which attached and incorporated hereto as **Exhibit "A"**; and

B. That certain written proposal for Basketball Gymnasium Equipment entitled "Request for Proposal for Basketball Gymnasium Equipment for City of Bell Gardens" dated May 12, 2020 (the Contract Proposal Work Scope) which is attached and incorporated hereto as **Exhibit "B"**.

B. For purposes of this Agreement, the capitalized term "Scope of Work" shall be a collective reference to City RFP Work Scope and the Basketball Gymnasium Equipment Contract Proposal Work Scope. In the event of any conflict or inconsistency between the provisions of the City RFP Work Scope and the Contract Proposal Work Scope shall govern and control but only to the extent of the conflict or inconsistency and no further.

B. Contractor also agrees to furnish City with all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For purposes of this Agreement, the capitalized term "Work" shall be a collective reference to all of the various services and tasks described under the Scope of Work.

Section 3. Prosecution of Work.

D. Time is of the essence of this Agreement and each and every provision contained herein. The Work shall be commenced within three (3) calendar days of City's issuance of a written notice to proceed ("Notice to Proceed").

E. Contractor shall cooperate with City and in no manner interfere with the work of City, its employees or other consultants, contractors or agents.

F. Contractor shall not perform any additional services or tasks beyond those expressly identified in the Scope Work without prior

authorization from City in the form of a written work order(s) issued by the City Representative (each such written request hereinafter referred to as a "Work Order"). Each Work Order shall include the following information:

- B A detailed description of the specific services or tasks requested;
- C The location of where the particular services or tasks are to be performed, if applicable;
- D A not-to-exceed budget for performing the services or tasks;
- E A timeline for completing the requested services or tasks;
- F Any other information City deems necessary and relevant to the requested services or tasks; and
- G The signature of the City Representative, confirming that the services or tasks have been authorized by the City Representative.

Section 4. Compensation.

- F Contractor shall perform the various services and tasks set forth in the Scope of Work in accordance with the hourly rates provided in Contractor's October 11, 2019 Proposal Schedule, which is attached and incorporated hereto as **Exhibit "C"**.
- G Section 2(a) notwithstanding, Contractor shall perform all of the various services

and tasks that comprise the Work for an annual not-to-exceed sum of (\$ Seventy-three thousand, five hundred fifty-five & 00/100 dollars (\$73,555.00)) (hereinafter, the "Not-to-Exceed Sum"). Contractor further agrees that the Not-to-Exceed Sum is inclusive of compensation for all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the Work. As specified under subsection (d) of this Section, below, the Not-to-Exceed sum shall be paid to Contractor in increments as the Work is completed.

- 8. In the event Contractor's charges are projected to exceed the Not-to-Exceed Sum prior to the completion of all of the Work, City may suspend Contractor's performance pending City approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other City-approved amendment to the compensation terms of this Agreement.
- 9. Following the conclusion of each calendar month, Contractor shall submit to City an itemized invoice indicating the services and tasks performed during the recently concluded calendar month. If any subtotal of charges set forth in the invoice is a function of hours worked by Contractor's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the job title/classification of the person(s) performing the services or tasks, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed within

the subtotal. Within thirty (30) calendar days of receipt of each invoice, City shall notify Contractor in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar day of receipt of each invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Contractor.

Section 5. Standard of Care. Contractor represents, acknowledges and agrees as follows:

9. Contractor shall perform all Work skillfully, competently and to the highest standards applicable to the Contractor's field;
10. Contractor shall construct and complete the Work in a good, workmanlike and prompt manner reasonably acceptable to City and shall furnish all labor and materials necessary to accomplish the same;
11. Contractor shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
12. Contractor understands the nature and scope of the work to be performed under this Agreement as well as any and all schedules of performance;
13. All of Contractor's employees and agents (including but not limited to Contractor's subcontractors and subconsultants) possess sufficient skill, knowledge, training and experience to perform those services and tasks contemplated under this Agreement; and
14. All of Contractor's employees and agents (including but not limited to Contractor's subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement.

The Parties acknowledge and agree that Contractor shall perform, at Contractor's own cost and expense and without any reimbursement from City, any services or tasks necessary to correct any errors or omissions caused by Contractor's failure to comply with the standard of care set forth under this Section or by any like failure on the part of Contractor's employees, agents, subcontractors and subconsultants. Such effort by Contractor to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the City

Representative in writing and absolute discretion. The Parties acknowledge and agree that Contractor's acceptance of any work performed by Contractor or on Contractor's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that City has relied upon the foregoing representations of Contractor, including but not limited to the representation that Contractor possesses the skills, training, knowledge and experience necessary to perform the Work in a skillful and competent manner equivalent to, the standard of performance generally recognized as being employed by professionals performing the same type of work and services in the State of California.

Section 6. Representatives.

- a. City Representative. For the purposes of this Agreement, the City's representative shall be Director of Public Work, Chau Vu (hereinafter, the "City Representative"). It shall be Contractor's responsibility to assure that the City Representative is kept informed of the progress of the performance of the services, and Contractor shall refer any decisions which must be made by City to the City Representative.
- b. Contractor Representative. For the purposes of this Agreement, Contractor hereby designates **Richard Sivas**, as its representative authorized to act on its behalf with respect to Contractor's performance under this Agreement and to make all decisions in connection therewith (the "Contractor Representative"). Notice to the Contractor Representative whether written or verbal shall constitute notice to Contractor.

Section 7. Contractor's Personnel

- C. Contractor represents that it has, or will secure at its own expense, all personnel required to perform the Work and all other services and tasks necessary for Contractor to competently and timely complete any tasks and services requested by way of City-issued Work Order. All work, services and tasks will be performed under Contractor's supervision, and Contractor's personnel engaged in the performance of the work, services and tasks contemplated under this Agreement, including subcontractors and their personnel, shall possess the qualifications, permits and licenses required by applicable law to perform such work, services and tasks on behalf of Contractor.
- D. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the Work. Contractor shall have the sole obligation to pay for any fees,

assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Work, and shall indemnify, defend and hold harmless City against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against CITY hereunder.

- c. Contractor shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the Work.
- d. If, at any time during the term of this Agreement, City requests the removal of any person(s) or subcontractor(s) assigned by Contractor to perform services pursuant to this Agreement, Contractor shall remove any such person immediately upon receiving notice from City of such request.
- D. Contractor shall be responsible for payment of all wages and benefits owed to Contractor's employees and the payment of subcontractors engaged by Contractor in the performance of this Agreement. Contractor shall also comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.
- E. Contractor shall obtain and maintain during the Term of the Agreement all necessary licenses, permits and certificates required by law for the performance of the Work contemplated under this Agreement.

Section 8. Warranty.

- B. Contractor warrants all materials used, equipment installed, and improvements constructed under this Agreement shall: (i) meet all conditions of the Agreement; and (ii) shall be free from all defects in design, materials and workmanship for a period of one (1) year after completion of the Work and acceptance by City. If any defects are discovered within twelve (12) months following acceptance by City, Contractor shall be solely responsible for the correction of those defects and Contractor's sole cost and expense. The warranty set forth under this subsection (a) of Section 7 shall be in addition to any warranties for materials used, equipment installed, and improvements constructed by Contractor in the performance of this Agreement.
- C. Contractor shall transfer to City all of Contractor's rights to and interest to any and all manufacturers' warranties or guarantees for any materials, equipment or fixtures installed by Contractor in the performance of this Agreement. Where applicable, City shall be named as the owner-beneficiary in any such warranties or guarantees. Contractor shall deliver

to City all the written material comprising the manufacturers' warranties or guarantees. Contractor shall ensure that each warranty or guarantee is in full force and effect from the date the City starts using the equipment or fixtures. All manufacturers' warranties or guarantees shall be in addition to the Contractor's warranty set forth under subsection (a) of this Section, above or subsection (c) of this Section, below.

- E. In addition to all manufacturers' warranties and all other warranties implied by law, Contractor warrants that all materials used, equipment installed, and improvements constructed in the performance of this Agreement shall conform to the Scope of Work and any additional plans, drawings or specifications incorporated into this Agreement.

Section 9. Surety Bond.

- A. Performance Bond. Unless waived by the City Representatives in writing, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total Not-to-Exceed Sum. The Performance Bond shall be in a form approved by City. No payment shall be made to Contractor until the Performance Bond has been received and approved by the City or the requirement for the Performance Bond has been waived.
- B. Labor and Materials Bond. Unless waived by the City Representatives in writing, Contractor shall execute and provide to City concurrently with this Agreement a Labor and Materials Bond in the amount of the Not-to-Exceed Sum. The Labor and Materials Bond shall be in a form approved by City. No payment shall be made to Contractor until the Labor and Materials Bond has been received and approved by the City.

Section 10. Documents and Data. All specifications, operational manuals, reports, documents or other written material ("written products") developed by Contractor in the performance of this Agreement shall be and remain the property of City. All data, documents, discussion, or other information received by Contractor from City or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without prior written consent by City. City shall grant such consent if disclosure is legally required or necessary to provide the services under this Agreement. All City data shall be returned to City upon the termination of this Agreement. Contractor's covenant under this Section shall survive the termination of this Agreement.

Section 11. Prohibited Interests. Contractor warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for Consultant, to solicit or secure this Agreement. Further, Contractor warrants and represents 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. For breach or violation of this warranty, City shall have the absolute and unfettered right to rescind this Agreement without liability or penalty. 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.

Section 12. Independent Contractor.

- a. The Parties acknowledge, understand and agree that Contractor and Contractor's employees, subcontractors, subconsultants and agents and all persons or entities acting on Contractor's behalf in the performance of this Agreement are independent contractors and not employees, officers or officials of the City. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Contractor has no authority or responsibility to exercise any rights or power vested in City. No agent, officer, or employee of City is to be considered an employee of Contractor. It is understood by both Contractor and City that this Agreement shall not, under any circumstances, be construed or considered to create an employer-employee relationship or a joint venture.
- b. Contractor, its agents, officers, subcontractors and employees are and, at all times during the term of this Agreement, shall represent and conduct themselves as independent contractors and not as employees, officials or officers of the City.
- c. Contractor shall determine the method, details and means of performing the Work. Contractor shall be responsible to City only for the requirements and results specified in this Agreement or any individual Work Order. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period as it provides services to City under this Agreement.
- d. If, in the performance of this Agreement, any third persons are employed by Contractor, such persons 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 any other term of employment or requirement of law shall be determined by the Contractor.
- e. As an independent contractor, Contractor hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

Section 13. Conflicts of Interest. Contractor hereby warrants for itself, its employees, and subcontractors that those persons presently have no interest and shall not obtain any interest, direct or indirect, which would conflict in any manner with the performance of the services contemplated by this Agreement. No person having such conflicting interest shall be employed by or associated

with Contractor in connection with this project. Contractor hereby warrants for itself, its employees, and subcontractors that no such person shall engage in any conduct which would constitute a conflict of interest under any City ordinance, state law or federal statute. Contractor agrees that a clause substantially similar to this Section shall be incorporated into any sub-contract that Contractor executes in connection with the performance of this Agreement.

Section 14. Non-Discrimination. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, Section 12990 et seq.) and the applicable regulations promulgated hereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This Contract shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

Section 15. Indemnification.

- a. To the fullest extent permitted by law, Contractor hereby agrees, at its sole cost and expense, to defend, protect, indemnify, and hold harmless City and City's elected and appointed officials, officers, attorneys, agents, employees, volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Contractor or any of Contractor's officers, agents, servants, employees, subcontractors, materialmen, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to this Agreement and the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent active or passive negligence by Contractor and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law or elsewhere under this Agreement. Payment is not required as a condition precedent to an Indemnitee's

right to recover under this indemnity provision, and an entry of judgment against any one or more of the Indemnitees shall be conclusive in favor of the Indemnitees' right to recover under this indemnity provision. Contractor shall pay Indemnitees for any attorney's fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitees' sole negligence or willful misconduct to the limited extent that the underlying Agreement is subject to Civil Code § 2782(a), or (b) the contracting public agency's active negligence to the limited extent that the underlying Agreement is subject to Civil Code § 2782(b). This indemnity is effective without reference to the existence or applicability of any insurance coverage(s) which may have been required under the Agreement or any additional insured endorsements which may extend to Indemnitees. Accountants, attorneys, or other professionals employed by Indemnitor to defend Indemnitees shall be selected by Indemnitees. Contractor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent active or passive negligence by the Indemnitees.

- b. Contractor's obligations under this or any other provision of this Agreement will not be 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 the Indemnities.
- c. Contractor agrees to obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations for the benefit of City, Contractor agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged, intentional, reckless, negligent or otherwise wrongful acts, errors or omissions of Contractor or any of its officers, employees, servants, agents, subcontractors, volunteers or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.
- d. City does not, and shall not; waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense. Contractor agrees that Contractor's covenant under this Section shall survive the termination of this Agreement.

- e. Contractor shall fully comply with the workers' compensation laws regarding Contractor and Contractor's employees. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

Section 16. Insurance.

- a. Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:
 - 1. Commercial General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) for each occurrence and in the aggregate for any personal injury, death, loss or damage.
 - 2. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
 - 3. Worker's Compensation insurance as required by the State of California.
- b. Contractor shall require each of its subconsultants or subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.
- c. The policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.
- d. Contractor agrees that if it does not keep the insurance required in this Agreement in full force and effect, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.
- e. Prior to commencement of work under this Agreement, Contractor shall file with City's Risk Manager a certificate or certificates of insurance showing that the insurance policies are in effect and satisfy the required amounts and specifications required pursuant to this Agreement.
- f. Contractor shall provide proof that policies of insurance expiring during the term

of this Agreement 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.

- g. The general liability and automobile policies of insurance shall contain an endorsement naming City, its elected officials, officers, agents, employees, attorneys, servants, volunteers, successors and assigns as additional insureds. All of the policies shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days' prior written notice to City. Contractor agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.
- h. The insurance provided by Contractor shall be primary to any other coverage available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.
- i. All insurance coverage provided pursuant to this Agreement shall not prohibit Contractor, and Contractor's employees, agents, subcontractors, or volunteers from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.
- j. Any deductibles or self-insured retentions must be approved by City. At the option of City, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.
- k. If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its managers, affiliates, employees, agents, and other persons necessary or incidental to its operation are insureds.
- l. Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duties to indemnify, hold harmless and defend under Section 15 of this Agreement.

Section 17. Records and Inspection. Contractor shall keep, and require subcontractors to keep, such books and records as shall be necessary to document the performance of the Work and enable the City to evaluate the performance the Work. The Contract Officer shall have full and free access to

such books and records at all times during normal business hours of City, including the right to inspect, copy, audit, and make records and transcripts from such records. Such records shall be maintained for a period of four (4) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

Section 18. Termination.

- a. Termination for Convenience. City may immediately terminate this Agreement for convenience, without cause and without penalty or liability at any time upon the issuance of written notice to Contractor specifying the effective date of such termination. Such termination for convenience shall be made in writing signed by the City Representative. Contractor may only terminate this Agreement for cause.
 - b. Termination for Cause. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement or any Work Order (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement or any Work Order), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under subsection 19(b)(2) below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement. An Event of Default shall include, but shall not be limited to the following: (i) Contractor's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (ii) Contractor's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iii) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to Contractor, whether voluntary or involuntary; (iv) Contractor's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (v) CITY's discovery that a statement representation or warranty by Contractor relating to this Agreement is false or erroneous in any material respect, including any statement, representation or warranty set forth in the Equipment Specifications.
1. Contractor shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of City's issuance of a Default Notice for any failure of Contractor to timely provide City or City's employees or agents with any information and/or written reports, documentation or work product which Contractor is obligated to provide to City or City's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, Contractor may submit a written request for additional time to cure the Event of Default upon a showing that Contractor has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, City shall be under no obligation to grant additional time for the cure of an Event of Default under this subsection that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within thirty (30) calendar days of City's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 30-day cure period, Contractor may submit a written request for additional time to cure the Event of Default upon a showing that Contractor has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 30-day cure period. The foregoing notwithstanding, City shall be under no obligation to grant additional time for the cure of an Event of Default under this subsection that exceeds thirty (30) calendar days from the end of the initial 30-day cure period.

If an Event of Default relates to a material falsehood or misrepresentation that is not susceptible to a cure, City in its sole and absolute discretion may elect to treat the falsehood or misrepresentation as a breach of this Agreement or waive the falsehood or misrepresentation. The foregoing notwithstanding, the prior waiver of a falsehood or misrepresentation as an Event of Default shall not operate as a waiver or any other falsehood or misrepresentation later discovered by City.

2. Except as otherwise specified in this Agreement, City shall cure any Event of Default asserted by Contractor within thirty (30) calendar days of Contractor's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 30-day cure period. Prior to the expiration of the 30-day cure period, City may submit a written request for additional time to cure the Event of Default upon a showing that City has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 30-day cure period. The foregoing notwithstanding, an Event of Default dealing with City's failure to timely pay any undisputed sums to Contractor shall be cured by City within five (5)

calendar days from the date of Contractor's Default Notice to City.

3. City, in its sole and absolute discretion, may also immediately suspend Contractor's performance under this Agreement or any individual Work Order (or the performance of any specific task or function performed by Contractor under this Agreement or any individual Work Order) pending Contractor's cure of any Event of Default by giving Contractor written notice of City's intent to suspend Contractor's performance (hereinafter, a "Suspension Notice"). City may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, Contractor shall be compensated only for those services and tasks which have been rendered by Contractor to the reasonable satisfaction of City up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of City shall operate to prohibit or otherwise restrict City's ability to suspend this Agreement as provided herein.
4. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
5. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to City at law or under this Agreement in the event of any breach of this Agreement, City, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon written notice to Contractor, the City may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to Contractor, the City may extend the time of performance;
 - iii. The City may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for Contractor's breach of the Agreement or to terminate the Agreement; or
 - iv. The City may exercise any other available and lawful right or remedy.

Contractor shall be liable for all legal fees plus other costs and expenses that City incurs upon a breach of this Agreement or in the City's exercise of its remedies under this Agreement.

6. In the event City is in breach of this Agreement, Contractor's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to Contractor under this Agreement for completed services and tasks. 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.
7. No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

Section 19. Force Majeure. The Completion Date shall be extended in the event of any delays due to unforeseeable causes beyond the control of Contractor and without the fault or negligence of Contractor, including but not limited to severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within three (3) calendar days of the commencement of such delay notify the City Representative in writing of the causes of the delay. The City Representative shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the City Representative such delay is justified. The City Representative's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

Section 20. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during Contractor's and City's regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore below, or to such other addresses as the parties may, from time to time, designate in writing.

If to City:

City of Bell Gardens

If to Contractor:

Herk Edwards, Inc.
23822 Hawthorne Blvd., Suite 201
Torrance, CA 90505

Department of Public Works

7100 Garfield Avenue

Bell Gardens, CA 92688

Phone: (562)806-7700

Attn: Public Works Director

With a courtesy copy to:

Rick Olivarez, City Attorney

Olivarez Madruga Lemieux
O'Neill, LLP

500 S. Grand Ave. Floor 12

Los Angeles, CA 90071

Telephone: (213)744-0099

Facsimile: (213)744-0093

Section 21. Prohibition. 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.

Section 22. Attorneys' Fees. In the event that City or Contractor commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover its costs of suit, including reasonable attorneys' fees.

Section 23. Entire Agreement. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. Except as expressly provided in this Agreement or its Exhibits, in the event of any conflict or inconsistency between the express provisions of this Agreement and provisions

of any document incorporated by reference, the provisions of this Agreement shall prevail and control. This instrument contains the entire Agreement between City and Contractor with respect to the subject matter herein. No other prior oral or written agreements are binding on the parties. Any modification of this Agreement will be effective only if it is in writing and executed by City and Contractor.

Section 24. Governing Law; Jurisdiction. This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

Section 25. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

Section 26. Captions. The captions used in this Agreement are solely for reference and the convenience of the parties. The captions are not a part of the Agreement, in no way bind, limit, or describe the scope or intent of any provision, and shall have no effect upon the construction or interpretation of any provision herein.

Section 27. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

(SIGNATURES ON NEXT PAGE)

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 BELL GARDENS:

“Contractor”

Herk Edwards, Inc. _____ :

By: _____
Michael B. O’Kelly, City Manager

By: 
Richard Sivas, Vice-President

Date: _____

Date: 5/28/2020

APPROVED AS TO FORM:

By: _____
Rick Olivarez, City Attorney

EXHIBIT “B”
CONTRACTOR PROPOSAL

PRICE QUOTATION

To: City of Bell Gardens
8000 Park Lane
Bell Gardens, CA 90201

Date: July 16, 2020

Attn.: Rozanne Adanto
Radanto@bellgardens.org

Re: Gymnasium Equipment

Phone: 562.806.7650

In accordance with the RFP – Gymnasium Basketball Equipment, we are pleased to submit this Price Quotation for repair and/or replacement of the gymnasium Basketball backstops, Scoreboards and Protective Floor Covering for the John Anson Ford Park Gymnasium.

<u>Quantity</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extension</u>
1 each	Remove and dispose of backboards, goals and manual winches from six (6) existing dual-post Basketball backstops		
6 each	New Performance Sports Systems (PSS) #AFRG42 Rectangular Glass Backboards with Aluminum Frame, #2500 Tournament Breakaway Goal, #1194 Electric Winches and #1180 Electric Goal Height, key-switch #1171 Electric Goal Height Adjuster with dual-post backstop adapter and #1100 Safstop safety locking strap.		
1 each	Removal and disposal of existing scoreboards.		
2 each	All American Scoreboards Model No. 8214C Multi-Sport Scoreboard, 5'- 0" high x 9'- 0" wide, with LED digits for Time, Home & Guest Score, Period, Possession and Bonus/Double Bonus indicators, Fouls and Player Fouls, and Score/Match Displays for Volleyball, wireless operation and shatter-proof polycarbonate face plate.		
1 set	All American Scoreboards Model N. 8299 Shot Clock Displays, 2'- 0" high x 2'- 2" wide, wall-mounted with wireless operation and polycarbonate, shatterproof face plate.		
2 each	All-American Scoreboards Model CR8000 control console with Wireless operation, Scoring slip sheets and case.		
8 rolls	Putterman Athletic GFC21, Gym Floor Cover, 21 oz. vinyl, 10' x 100' (9,000 SF)		
1 ea.	Putterman #GFCR9-KIT, 8 Roll Rack/Cart for Vinyl Gym Floor Covers		
1 ea.	Putterman #GFCTAP, Clear Vinyl 6 mil Rubber Adhesive, 12 Rolls/Case		
1 ea.	Putterman #GFCTDWB, Wall Behind Tape Dispenser		
1 ea.	Putterman #GFPCW, Portable Auto Power Winder, 110v for 8 Roll Rack		
1 ea.	Putterman #014, Crimped Black Ply, 2.5" x 144", Brush, (aluminum holder)		

Materials, FOB jobsite, tax included...	\$57,026.00
Labor...	<u>\$16,529.00</u>
Total...	\$73,555.00

Clarifications/Exceptions/Exclusions:

- Prices quoted assumes existing dual-post backstop drop pipes to be 2 3/8" diameter and 63" on center (to be field confirmed)
- Electrical service and junction boxes for Electric Winches and Electric Goal Height Adjusters to be provided by others.
- This quote assumes standard 120V convenience outlet at each scoreboard and shot clock location and in floor at scorer's table location(s). Running of new power or modification of existing power supplies, if necessary, to be provided by others
- Scoreboard and Shot Clock face panels colors to be selected from manufacturer's nine (9) standard colors.

23822 Hawthorne Blvd. Suite 201 ♦ Torrance, California 90505

Phone: (310) 373-0543 ♦ Email: Info@herkedwards.com ♦ Web: www.herkedwards.com

CA Lic 232760 ♦ DIR 1000001262

PRICE QUOTATION

Page 2

To: City of Bell Gardens
Attn.: Rozanne Adanto
Radanto@bellgardens.org
Phone: 562.806.7650

Date: July 16, 2020
Re: Gymnasium Equipment

Terms & Conditions:

Herk Edwards, Inc. does not perform any onsite work and is not signatory to any labor agreements. All on site labor shall be performed by a lower tier subcontractor and unless otherwise noted, prices quoted include installation labor based on current Prevailing Wage Rates. The cost of any required bonds is not included in this proposal. If Performance and Payment bonds are required, add 1% to quote price. Insurance coverage to be HEI's standard General Liability (\$2,000,000 aggregate), Excess Liability (\$4,000,000 aggregate) and Worker's Compensation. Any required coverage in excess of these amounts, if obtainable, will be provided at additional cost. Additional Insured forms CG2010 and CG2037 (only) will be provided if required by the contract.

Payment terms shall be Net 30 days from the date progress billings are submitted, provided all billing paperwork has been correctly submitted as required by the Subcontract Agreement or Purchase Order/Agreement.

Prices quoted are valid for a period of 60 days from the date of quotation or bid and are based on shipment of the materials not later than **9/30/2020**. Add .75% per month for shipment thereafter. Shipment of equipment shall be approximately **90-120** calendar days after receipt of approved shop drawings, color selections and verification of field dimensions (or Contractor's/Owner's release in lieu thereof). This Price Quotation constitutes the full scope and terms and conditions of this proposal, and must become a part of, as if included therein, any Subcontract Agreement or Purchase Order/Agreement for any of the above proposed materials and/or labor, or this proposal shall become invalid.

Richard Sivas

Richard Sivas
HERK EDWARDS, INC.