



**AGREEMENT
FOR CONTRACT SERVICES FOR
CITY OF CORONADO**

MCCARTY EVENT LIGHTING dba SAN DIEGO SOCIALIGHTS

CONTRACT NO. 25-SS-PS-1028

THIS AGREEMENT FOR CONTRACT SERVICES (“AGREEMENT”) is made and entered by and between the CITY OF CORONADO, a California municipal corporation, hereinafter referred to as “CITY,” and McCarty Event Lighting dba San Diego Socialights, a California Corporation, hereinafter referred to as “CONTRACTOR”, and the CORONADO TOURISM IMPROVEMENT DISTRICT, a California Mutual Benefit Non-profit Organization

RECITALS

The CITY requires the services of an outside independent contractor, with a state license, to provide all labor, materials and supervision required to provide holiday tree lighting services at Rotary Park in Coronado CA. These required services are described in detail in ATTACHMENT A: Scope of Services.

CONTRACTOR was selected in accordance with Coronado Municipal code 8.04.060 Major Purchase procedures and authorization to award this AGREEMENT was approved by City Council on October 7, 2025.

CONTRACTOR warrants and represents itself as possessing the necessary experience, skills and qualifications to provide the services required by CITY and to ensure that all work is performed in a professional manner and the final product is of a high quality.

CONTRACTOR warrants and represents that it has the necessary staff to deliver the services within the time frame herein specified and is fully qualified to perform those services within the specified time frame in accordance with the highest standards of CONTRACTOR’S profession.

The Director of Public Services & Engineering shall serve as CITY’S “Contract Officer” for this AGREEMENT and has the authority to direct the CONTRACTOR, approve actions, request changes, and approve additional services. Any obligation of the CITY shall be the responsibility of the Contract Officer.

The General Services Manager, Public Services & Engineering Department, shall serve as CITY'S "Project Coordinator" for this AGREEMENT.

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, CITY and CONTRACTOR (individually "Party" and collectively "Parties") agree as follows:

1.0 TERMS OF AGREEMENT

1.1 This AGREEMENT shall be effective on and from the day, month and year of the execution of this document by the Parties. This AGREEMENT shall be in effect for a term of five years beginning November 1, 2025, and ending October 31, 2030, during which time the CONTRACTOR shall commence and complete all of the services required pursuant to this AGREEMENT within the holiday season as set forth in ATTACHMENT A and pursuant to Section 1.3 herein.

1.2 This AGREEMENT is a firm, fixed-price contract for all labor and materials including, but not limited to, tree lighting installation and removal. All tasks to be performed are to be completed, or this AGREEMENT is otherwise terminated. Prices shall remain firm upon execution of this AGREEMENT.

1.3 CONTRACTOR shall commence work under this AGREEMENT within the time period specified in Section 1.1. The work shall be completed during each holiday season such that the tree is ready for lighting on the first Friday in December and all lighting is removed by January 5th during the term of this AGREEMENT unless a different schedule is specified in the Notice to Proceed, as may be modified pursuant to the AGREEMENT. Time is of the essence in the performance of all obligations under this AGREEMENT, and all timing requirements shall be strictly adhered to unless otherwise modified in writing by the CITY. Failure to meet the schedule contained in this AGREEMENT is a default by the CONTRACTOR.

1.4 CONTRACTOR shall, without additional compensation, correct or revise any services performed pursuant to this AGREEMENT that do not meet the specifications and/or professional standards required of the CONTRACTOR.

2.0 SCOPE OF SERVICES (ATTACHMENT A)

2.1 CONTRACTOR shall provide CITY with the services and documents described in ATTACHMENT A, which is attached hereto and incorporated herein by this reference as though fully set forth at length and is hereinafter referred to as the "SERVICES."

2.2 The general manner in which the CONTRACTOR shall render the SERVICES is set forth in ATTACHMENT A. While CITY is, in general, concerned with the manner in which the SERVICES are rendered, under this AGREEMENT, as represented by CONTRACTOR, it is not concerned with, nor shall it direct, the specific means and methods of operations on the part of CONTRACTOR in the performance of its SERVICES under this AGREEMENT.

CONTRACTOR shall provide all labor, materials, equipment, tools and services required by and shall perform all work described in this AGREEMENT.

3.0 FEE SCHEDULE/GENERAL INFORMATION (ATTACHMENTS B AND F)

3.1 CONTRACTOR is hired to render the SERVICES and any payments made to CONTRACTOR are compensation, fully, for such services.

3.2 Payment to CONTRACTOR to render the SERVICES is set forth in ATTACHMENT B, which is attached hereto and incorporated herein by this reference as though fully set forth at length.

3.3 CONTRACTOR shall comply with all applicable Federal, State and local laws pertaining to the subject matter hereof or in any way regulating the activities undertaken by CONTRACTOR or any subcontractor hereunder.

3.4 CONTRACTOR acknowledges that this is a public works contract. CONTRACTOR represents and warrants that it is familiar with the requirements of the California Labor Code and agrees to comply at all times with relevant statutes and regulations, including, but not limited to, the fact that CONTRACTOR must pay not less than prevailing wage rates as determined by the Director of Industrial Relations for all work done under this AGREEMENT. State of California prevailing wage rates can be found on the internet at <http://www.dir.ca.gov/DLSR/PWD/Statewide.html>. CONTRACTOR is responsible for determining the correct title for job classifications and determining the appropriate wage rate. CONTRACTOR agrees to perform this AGREEMENT in accordance with ATTACHMENT F and all the obligations set forth therein.

4.0 CHANGES TO SCOPE OF WORK

CONTRACTOR shall not perform work in excess of the SERVICES without the prior written approval of the Contract Officer. All requests for extra work shall be by written change order submitted to the Contract Officer prior to the commencement of such work.

5.0 SUBCONTRACTING

5.1 The name location of the place of business and DIR registration numbers of each subcontractor who CONTRACTOR will use to perform work or render service to the CONTRACTOR in performing this AGREEMENT is contained in **ATTACHMENT C**, which is attached hereto and incorporated herein by this reference as though fully set forth at length. No change to or addition of any subcontractor shall be made without the prior written approval of the CITY.

5.2 If CONTRACTOR subcontracts for any of the work to be performed under this AGREEMENT, CONTRACTOR shall be as fully responsible to the CITY for the acts and omissions of CONTRACTOR's subcontractors and for the persons either directly or indirectly employed by its subcontractors, as CONTRACTOR is for the acts and omissions of persons

directly employed by CONTRACTOR. Nothing contained in this AGREEMENT shall create any contractual relationship between any subcontractor of CONTRACTOR and the CITY. In any dispute between the CONTRACTOR and its subcontractor, the CITY shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONTRACTOR agrees to defend and indemnify the CITY as described in Section 12 of this AGREEMENT should the CITY be made a party to any judicial or administrative proceeding.

5.3 CONTRACTOR shall bind every subcontractor to all the terms of this AGREEMENT applicable to CONTRACTOR's work unless specifically noted to the contrary in the subcontract in question and approved in writing in advance by the Contract Officer. All contracts entered into between the CONTRACTOR and its subcontractor(s) shall also provide that each subcontractor shall obtain insurance policies that shall be kept in full force and effect during any and all work on this project and for the duration of this AGREEMENT. The CONTRACTOR shall require every subcontractor to obtain all policies described in Section 13 in the same amounts required by the CITY.

6.0 ENTIRE AGREEMENT

6.1 This AGREEMENT and the incorporated attachments set forth the entire understanding of the Parties with respect to the subject matters herein. If there are any inconsistencies between the incorporated attachments and this AGREEMENT, the terms of this AGREEMENT control. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the Parties, their officers, officials, agents, representatives, contractors, subcontractors or employees shall be valid unless agreed to in writing by both Parties.

7.0 TERMINATION OF AGREEMENT

7.1 In the event of CONTRACTOR'S failure to prosecute, deliver, or perform the SERVICES, CITY may terminate this AGREEMENT immediately by notifying CONTRACTOR by certified mail of said termination. Thereupon, CONTRACTOR shall cease work and, within two (2) working days, place all work in progress in a safe and protected condition. The City Manager of CITY shall make a determination of the percentage of work that CONTRACTOR performed that is usable and of worth to CITY. Based upon that finding, CITY shall determine any final payment due to CONTRACTOR.

7.2 This AGREEMENT may be terminated by the CITY, without cause, upon the giving of fifteen (15) days' written notice to the CONTRACTOR. Prior to the fifteenth (15th) day following the giving of the notice, the CONTRACTOR shall assemble the completed work product to date and put the same in order for proper filing and closing, and deliver said product to the CITY. The CONTRACTOR shall be entitled to just and equitable compensation for any satisfactory work completed. The CONTRACT OFFICER and CONTRACTOR shall endeavor to agree upon a percentage complete of the contracted work if fees are fixed, or an agreed dollar sum based on services performed if hourly, and terms of payment for services and reimbursable expenses.

CONTRACTOR hereby expressly waives any and all claims for damages or compensation arising under this AGREEMENT except as set forth herein.

8.0 LIQUIDATED DAMAGES/FORCE MAJEURE [RESERVED]

9.0 COVENANT AGAINST CONTINGENT FEES

9.1 CONTRACTOR represents and warrants that it has not employed or retained any company or person, other than a bona fide employee working for CONTRACTOR, to solicit or secure this AGREEMENT, and that CONTRACTOR has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this AGREEMENT. For breach or violation of this representation and warranty, CITY shall have the right to terminate this AGREEMENT without liability or, at CITY'S sole discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

10.0 STATUS OF CONTRACTOR

10.1 CONTRACTOR shall perform the SERVICES in a manner of CONTRACTOR'S own choice, as an independent CONTRACTOR and in pursuit of CONTRACTOR'S independent calling, and not as an employee of CITY. CONTRACTOR shall be under control of CITY only as to the result to be accomplished and the personnel assigned to the project. However, CONTRACTOR shall confer with CITY prior to implementing any changes proposed to the SERVICES. Neither CONTRACTOR nor CONTRACTOR'S employees shall be entitled in any manner to any employment benefits, including but not limited to, employer paid payroll taxes, Social Security, retirement benefits, health benefits, or any other benefits, as a result of this AGREEMENT. It is the intent of the Parties that neither CONTRACTOR nor its employees are to be considered employees of CITY, whether "common law" or otherwise, and CONTRACTOR shall indemnify, defend and hold CITY harmless from any such obligations on the part of its officers, employees, representatives and agents.

11.0 ASSIGNMENT OF CONTRACT

11.1 This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONTRACTOR's duties be delegated or sub-contracted, without the express written consent of the CITY.

12.0 INDEMNITY – HOLD HARMLESS

12.1 To the fullest extent permitted by law, CONTRACTOR agrees that CITY and its elected and appointed boards, officials, officers, agents, employees, representatives and volunteers (individually and collectively, "CITY Indemnitees") shall have no liability to CONTRACTOR or any other person for, and CONTRACTOR shall indemnify, defend and hold harmless CITY Indemnitees from and against, any and all liabilities, claims, demands, actions, causes of action,

proceedings, suits, damages, judgments, liens, levies, costs and expenses, including reasonable attorneys' fees and disbursements, (collectively "Claims") that arise out of, pertain to, or relate to this AGREEMENT or any act or omission of CONTRACTOR or its officers, directors, representatives, employees, agents or subcontractors (collectively "CONTRACTOR'S PERSONNEL") in connection with this AGREEMENT, including, but not limited to, performance of or failure to perform the SERVICES.

12.2 CONTRACTOR's obligation herein does not extend to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected and appointed boards, officials, officers, agents, employees, representatives or volunteers.

12.3 CONTRACTOR shall provide a defense (with counsel acceptable to CITY) to the CITY's Indemnitees, or at the CITY's sole option, reimburse the CITY's Indemnitees for all costs, attorneys' fees, expenses and liabilities (including judgment or portion thereof) incurred with respect to any litigation in which the CONTRACTOR is obligated to indemnify, defend and hold harmless the CITY pursuant to this AGREEMENT.

12.4 **PERS Eligibility Indemnification.** In the event that any of CONTRACTOR's PERSONNEL is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS of the CITY, CONTRACTOR shall indemnify, defend (with counsel acceptable to CITY), and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of CONTRACTOR's PERSONNEL as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, CONTRACTOR's PERSONNEL providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation and benefit including but not limited to eligibility to enroll in PERS as an employee of CITY and entitlement to any contributions to be paid by CITY for employer contributions and/or employee contributions for PERS benefits.

12.5 **Limitation of CITY Liability.** The payment made to CONTRACTOR pursuant to this contract shall be the full and complete compensation to which CONTRACTOR and CONTRACTOR's PERSONNEL are entitled for performance of any work under this contract. Neither CONTRACTOR nor CONTRACTOR's PERSONNEL are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the CITY. The CITY will not make any federal or state tax withholdings on behalf of CONTRACTOR. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONTRACTOR.

12.6 **Indemnification for Employee Payments.** CONTRACTOR agrees to defend (with counsel acceptable to CITY), and indemnify and hold harmless the CITY for and against any obligation, claim, suit or demand for tax, retirement contribution including any contribution to the Public Employees Retirement System (PERS), social security, salary or wages, overtime payment,

or workers' compensation payment which the CITY may be required to make on behalf of CONTRACTOR or CONTRACTOR'S PERSONNEL for work done under this AGREEMENT.

12.7 The provisions of this Section 12 shall not be limited by any provision of insurance coverage that the CONTRACTOR may have in effect, or may be required to obtain and maintain, during the term of this AGREEMENT. The provisions of this Section 12 shall survive expiration or termination of this AGREEMENT.

12.8 City shall timely notify the CONTRACTOR of the receipt of any third-party claim, relating to the AGREEMENT, and the City shall be entitled to recover its reasonable costs incurred in providing the notification.

12.9 Responsibility For Equipment. Notwithstanding anything in this AGREEMENT to the contrary, CITY shall not be responsible nor held liable for any damage whatsoever, including, but not limited to persons or property, resulting from or arising out of the use, misuse or failure of any equipment used by CONTRACTOR or any of its agents, employees or subcontractors, even if such equipment has been furnished, rented or loaned to CONTRACTOR by CITY. Any and all equipment furnished, rented or loaned to CONTRACTOR by CITY is provided on an "as is" basis. CITY MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ITS EQUIPMENT, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The acceptance or use of any CITY equipment by CONTRACTOR or its agents, employees, or subcontractors shall be with all faults and shall be construed to mean that CONTRACTOR accepts full responsibility for and agrees to defend, indemnify and hold harmless CITY from and against any and all claims for any damage whatsoever resulting from the use, misuse or failure of such equipment. CONTRACTOR HEREBY RELEASES, WAIVES, DISCHARGES AND CONVENANTS NOT TO SUE CITY FOR ANY AND ALL LIABILITY FROM ANY AND ALL CLAIMS RELATING TO ANY CITY EQUIPMENT.

13.0 INSURANCE

13.1 CONTRACTOR shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the SERVICES and the results of that work by CONTRACTOR'S PERSONNEL. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.

13.2 CONTRACTOR shall obtain, and during the term of this AGREEMENT shall maintain, policies of general liability, automobile liability, contractual liability and property damage insurance from an insurance company or companies authorized to be in business in the State of California, in an insurable amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate or the limits specified below, whichever are greater. The insurance policies shall provide that the policies shall remain in full force during the full term of this AGREEMENT and shall not be canceled, terminated, or allowed to expire or not

be renewed without thirty (30) days prior written notice to CITY from the insurance company, and shall contain a blanket waiver of subrogation. Statements that the carrier “will endeavor” and “failure to mail such notice shall impose no obligation or liability upon the company, its agents or representatives,” will not be acceptable on insurance certificates. Maintenance of specified insurance coverage is a material element of this AGREEMENT.

13.3 Types and Amounts Required. CONTRACTOR shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

13.3.1 Commercial General Liability (CGL). CONTRACTOR shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad as CG 00 01 which shall cover liability arising from any and all personal injury or property damage, including ongoing and completed operations, in the amount no less than \$2,000,000.00 per occurrence and subject to an annual aggregate of \$4,000,000.00. If limits apply separately to this project (CG 25 03 or 25 04) the general aggregate limit shall not apply. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy. If CONTRACTOR maintains higher limits than the limits shown above, the CITY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY. Any excess or umbrella policies being used to meet the required limits of insurance will be evaluated separately and must meet the same qualifications as the CONTRACTOR’s primary policy.

13.3.2 Commercial Automobile Liability. CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles, including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of no less than \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

13.3.3 Workers' Compensation. CONTRACTOR shall maintain Worker’s Compensation insurance for all of CONTRACTOR's PERSONNEL who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONTRACTOR shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.

13.4 The CITY and its officers, officials, employees, agents, representatives and volunteers shall be named as additional insureds on the required liability policies with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001), which shall be submitted to the CITY.

13.5 All policies shall contain a provision stating that the CONTRACTOR'S policies are primary insurance and that insurance (including self-retention) of the CITY or any named insured shall not be called upon to contribute to any loss, as reflected in an endorsement at least as broad as CG 20 01 04 13, which shall be submitted to the CITY. This provision shall apply regardless of any language of the policy maintained by the CONTRACTOR during the term of this AGREEMENT.

13.6 Before CONTRACTOR shall employ any person or persons in the performance of the AGREEMENT, CONTRACTOR shall procure a policy of Workers' Compensation Insurance as required by the Labor Code of the State of California or shall obtain a certificate of self-insurance from the Department of Industrial Relations.

13.7 Prior to commencement of work under this AGREEMENT, CONTRACTOR shall furnish to the Contract Officer proof of the insurance required in this section. Failure by the Contract Officer to object to the contents of the certificate and/or policy endorsement or the absence of same shall not be deemed a waiver of any and all rights held by the CITY. Failure on the part of CONTRACTOR to procure or maintain in full force the required insurance shall constitute a material breach of contract under which the CITY may exercise any rights it has in law or equity including, but not limited to, terminating this AGREEMENT pursuant to Paragraph 7.1 above.

13.8 The CITY reserves the right to review the insurance requirements of this section during the effective period of the AGREEMENT and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon economic conditions, recommendation of professional insurance advisors, changes in statutory law, court decisions or other relevant factors. The CONTRACTOR agrees to make any reasonable request for the deletion, revision, or modification of particular insurance policy terms, conditions, limitations, or exclusions (except where those policy provisions are established by law or are established by regulations that are binding upon either party to the contract, or are binding upon the underwriter to the contract). Upon request by CITY, CONTRACTOR shall exercise reasonable efforts to accomplish such changes in policy coverages and shall pay the cost thereof.

13.9 Any deductibles or self-insured retentions are the responsibility of CONTRACTOR and must be declared to and approved by the CITY. At the CITY's option, the CONTRACTOR shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

13.10 CONTRACTOR hereby grants to CITY a waiver of any right to subrogation that any insurer of said CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the CITY has requested or received a waiver of subrogation endorsement from the insurer.

14.0 DISPUTES

14.1 If a dispute should arise regarding the performance of this AGREEMENT, the following procedures shall be used to address the dispute:

a. If the dispute is not resolved informally, then, within five (5) working days thereafter, the CONSULTANT shall prepare a written position statement containing the party's full position and a recommended method of resolution and shall deliver the position statement to the CONTRACT OFFICER.

b. Within ten working (10) days of receipt of the position statement, the CONTRACT OFFICER shall prepare a response statement containing the CITY's full position and a recommended method of resolution and shall deliver the response statement to the CONSULTANT.

c. After the exchange of statements, if the dispute is not resolved within ten working (10) days, the CONSULTANT and the CONTRACT OFFICER shall deliver the statements to the City Manager who shall make a determination within ten working (10) days.

14.2 If the dispute remains unresolved for ten working (10) days following the City Manager's determination, and the parties have exhausted the procedures of this section, the parties may then seek resolution by mediation or such other remedies available to them by law or in equity.

15.0 NOTICES

15.1 Any notices to be given under this AGREEMENT, or otherwise, shall be served by certified mail.

15.2 For the purposes hereof, unless otherwise provided in writing by the Parties hereto, the address of the Parties and the proper person to receive any notice on each Party's behalf is:

For CITY:

Eddie Torres, General Services Manager
Public Services & Engineering Department
City of Coronado
101 B Avenue
Coronado, CA 92118

For CONTRACTOR:

Alex Thibadeau, Vice President
McCarty Event Lighting dba San Diego Socialights
3302 Kurtz Street
San Diego, CA 92110
(619) 794-4519

15.3 CONTRACTOR represents and warrants that its employer's identification number is 81-1344947, its Coronado Business Registration Certificate is 02607231, CSLB license number is 1031484, and its Department of Industrial Relations number is 1000852643.

16.0 CONTRACTOR'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986

16.1 CONTRACTOR certifies that CONTRACTOR is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants before they perform any SERVICES under this AGREEMENT.

17.0 GENERAL PROVISIONS

17.1 **Accounting Records.** CONTRACTOR shall keep records of the direct reimbursable expenses pertaining to the SERVICES and the records of all accounts between the CONTRACTOR and any subcontractors. CONTRACTOR shall keep such records on a generally recognized accounting basis. These records shall be made available to the Contract Officer, or the Contract Officer's authorized representative, at mutually convenient times, for a period of three (3) years from the completion of the SERVICES.

17.2 **Contract Officer.** The Director of Public Services and Engineering shall serve as the CITY's "Contract Officer" for this AGREEMENT and has the authority to direct the CONTRACTOR, approve actions, request changes, and approve additional services within her/his authority. Any obligation of the CITY shall be the responsibility of the Contract Officer. Excepting the provisions pertaining to dispute resolution, no other person shall have any authority under this AGREEMENT unless specifically delegated in writing.

17.3 **Governing Law.** This AGREEMENT and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this AGREEMENT shall be held exclusively in a state court in the County of San Diego. CONTRACTOR hereby irrevocably consents to service outside the State of California and to the personal jurisdiction of and exclusive venue in the state and federal courts in the County of San Diego, California and waives any objection to such jurisdiction or venue. CONTRACTOR hereby waives the right to remove any action from San Diego County as is otherwise permitted by California Code of Civil Procedure Section 394.

17.4 **Business Certificate.** CONTRACTOR and its subcontractors, if any, are required to obtain and maintain a City Business Certificate during the duration of this AGREEMENT.

17.5 **Compliance with Law.** The CONTRACTOR shall be responsible for complying and ensuring its subcontractors comply with all local, state, and federal laws, rules, regulations, orders, policies, protocols and guidance, whether or not said laws are expressly stated or referred to herein, including, but not limited to complying with COVID-19 sanitation protocols, health orders and guidance.

17.6 **Bonds.** At the time of the execution of this Agreement, CONTRACTOR shall provide the CITY with good and sufficient surety bonds in a form and amount acceptable to the CITY and maintain such bonds as follows:

17.6.1 The payment bond (material and labor bond) shall be for not less than one hundred percent (100%) of the contract price to satisfy claims of material suppliers and of mechanics and laborers employed in connection with the SERVICES. The bond shall be maintained by the Contractor in full force and effect until the SERVICES are accepted by the CITY, and until all claims for materials and labor are paid, and shall otherwise comply with the Civil Code.

17.6.2 The performance bond shall be for one hundred percent (100%) of the contract price to guarantee faithful performance of all SERVICES, within the time prescribed, in a manner satisfactory to the CITY, and that all materials and workmanship will be free from original or developed defects.

17.7 Responsibility for Others. CONTRACTOR shall be responsible to the CITY for its services and the services of its subcontractors. CONTRACTOR shall not be responsible for the acts or omissions of other parties engaged by the CITY nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.

17.8. Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision that is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

17.9. Conflicts between Terms. If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Attachments, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT and shall cooperate in good faith to resolve the same.

17.10 Non-Discrimination. CONTRACTOR shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, military or veteran status, medical condition, genetic information, gender expression, marital status, or sexual orientation. CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, military or veteran status, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places available to employees and applicants for

employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

17.11 **Rights Cumulative.** All rights, options, and remedies of the CITY contained in this AGREEMENT shall be construed and held to be cumulative, and no one of the same shall be exclusive of any other, and the CITY shall have the right to pursue any one of all of such remedies or any other remedy or relief that may be provided by law or in equity, whether or not stated in this AGREEMENT.

17.12 **Waiver.** No waiver by either Party of a breach by the other Party of any of the terms, covenants, or conditions of this AGREEMENT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default of either Party hereunder shall be implied from any omission by the other Party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect default other than as specified in said waiver.

17.13 **Third Parties.** No provision contained in the AGREEMENT shall create or give to third parties any claim or right of action against the CITY or CONTRACTOR or their respective officers, directors, officials, employees, representatives, contractors, subcontractors or agents.

17.14 **Survival.** The provisions of the AGREEMENT that by their nature survive termination or final completion of the AGREEMENT, including all warranties, indemnities, payment obligations, and the CITY's right to audit CONTRACTOR's books and records, shall remain in full force and effect after final completion or any termination of the AGREEMENT.

17.15 **Severability.** In the event that any part of this AGREEMENT is found to be illegal or unenforceable under the law as it is now or hereafter in effect, either Party will be excused from performance of such portion or portions of this AGREEMENT as shall be found to be illegal or unenforceable without affecting the remaining provisions of this AGREEMENT.

17.16 **Exhibits Incorporated.** All Attachments/Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

[SIGNATURES CONTINUED ON NEXT PAGE]

18. SIGNATURES

18.1 Each signatory and Party hereto hereby warrants and represents to the other Party that it has legal authority and capacity and direction from its principal to enter into this AGREEMENT, and that all resolutions or other actions have been taken so as to enable it to enter into this AGREEMENT.

CITY:

CONTRACTOR:

By: _____
Tina Fried, City Manager Date

By: _____
Kelly McCarty, CEO Date

By: _____
Ryan McCarty, CFO Date

APPROVAL AS TO CONTENT

**CORONADO TOURSIM IMPROVEMENT
DISTRICT (DISCOVER CORONADO):**

Leon P. Firsht, Director Date
Public Services & Engineering

Todd Little, Executive Director Date

APPROVAL AS TO FORM:

Johanna N. Canlas, City Attorney Date

ATTEST:

Kelsea Holian, MMC, City Clerk Date

I. REQUIRED CERTIFICATES:

1. CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

II. ATTACHMENTS

1. SCOPE OF SERVICES (**ATTACHMENT A**)

2. FEE SCHEDULE/GENERAL INFORMATION (**ATTACHMENT B**);

3. LIST OF SUBCONSULTANTS/SUBCONTRACTORS (**ATTACHMENT C**);

4. CERTIFICATION that CONTRACTOR has read, understands and will comply with, "A Pollution Prevention Guide for the Construction Community" Web Address Provided (**ATTACHMENT D**);

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

Section 3700 of the California Labor Code provides in part as follows:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

A. By being insured against liability to pay compensation to one or more insurers duly authorized to write compensation insurance in this state.

B. By securing from the Director of Industrial Relations a certificate of consent to self-insure ... which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his other employees...."

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of any of the work of the foregoing AGREEMENT.

Contractor Name: _____

Signature: _____

Name: _____

Title: _____

Contractor Address: _____

NOTE: In accordance with Article 5, commencing at Section 1860, Chapter 1, Part 7, Division 2, of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this AGREEMENT.

ATTACHMENT A

SCOPE OF SERVICES

I. GENERAL TERMS & CONDITIONS:

CONTRACTOR shall provide all labor, materials and supervision required to provide holiday tree lighting services at Rotary Park in Coronado CA. As further described below, CONTRACTOR shall provide to the Project Coordinator a written schedule of work to be done. CONTRACTOR is to coordinate the work with the Project Coordinator as to not interfere with traffic flow or park utilization. CONTRACTOR shall perform all necessary pedestrian and traffic control.

CONTRACTOR shall carefully examine the work site. The execution of this AGREEMENT by the CONTRACTOR shall be considered evidence that the CONTRACTOR has investigated, and is satisfied as to, the conditions to be encountered, the character and quality of the work to be performed and materials to be furnished, and the requirements of all documents referred to in this AGREEMENT.

CONTRACTOR shall maintain compliance with the City of Coronado Municipal Code, Title 61, regarding storm water run-off system discharge regulations and requirements, California Regional Water Quality Control Board, San Diego Region Order No. R9-2013-0001 and National Pollutant Discharge Elimination System (NPDES) No. CAS0109266, as well as the Best Management Practices (BMPs) referred to in the CITY'S Jurisdictional Runoff Management Plan (JRMP), Section 7, Industrial and Commercial, subsection 7.3.3, Updated BMP Requirements. Examples of such BMPs are described in the flyer "Clean Coastlines, City of Coronado, a Pollution Prevention Guide for the Construction Community." This document may be read and/or downloaded from the City's website at:

<https://www.coronado.ca.us/pollutionpreventionguidelines>

Violations of any of the requirements may lead to a civil penalty up to \$10,000 per day, per violation and is considered a breach of the AGREEMENT.

CONTRACTOR performance shall present a professional image and a high standard of quality and technical competence at all times. Total responsibility for this is placed upon CONTRACTOR. If a conflict occurs between "Best Management Practice" and the specification, "Best Management Practice" shall prevail and the CITY shall be notified of any necessary changes to the specified operations/materials.

II. CONTRACT DOCUMENTS**III. PERFORMANCE SPECIFICATIONS****A. GENERAL SPECIFICATIONS:**

These specifications are intended to cover all labor, materials and supervision to provide holiday tree lighting services at Rotary Park in Coronado CA. These required services are described in detail in Exhibits I and II. Work or materials of a minor nature that may not be specifically mentioned, but that may be reasonably assumed as necessary for the completion of this work shall be performed by CONTRACTOR as if described in the specifications.

B. CONTRACTOR SHALL:

1. Within three (3) working days after the effective date of the AGREEMENT, prepare and submit a schedule to the Project Coordinator, showing specific day/date/time of work. Schedule is subject to preapproval by the Project Coordinator.
2. Notify the Project Coordinator prior to the scheduled day/date/time of changes for an alternate start date. Failure to meet schedule shall be deemed grounds for non-payment and/or contract termination.
3. Install holiday lighting decoration on the City of Coronado Christmas Tree.
4. Wrap approximately 100' municipal Christmas Tree located in Rotary Plaza in Coronado with C-9 LED multi-color strand lights around exterior branches. Colors recommended include red, orange, yellow, green, blue and cool white and spacing approximately 6" on lights.
5. Install cool white strobe lights spaced every 10 ft on strand to accomplish a shimmer effect. Supply a 48" star tree topper.
6. Contractor will be responsible for a 120' boom and operator to accomplish the installation.
7. Contractor will provide maintenance and repair if any issues arise during display.
8. Contractor shall remove lighting and all decorative features the first week of January.
9. CONTRACTOR shall perform the tree lighting services during the month of November to ensure tree is set for City of Coronado official tree lighting the first Friday in December.

10. Care shall be taken to prevent damage to the tree. If any damage occurs CONTRACTOR shall notify City Contract Officer immediately and an inspection will take place by the City arborist.
11. CONTRACTOR shall request 7 days prior for no parking posting if needed for any operations. CONTRACTOR shall also provide adequate traffic control during installation, maintenance and removal of lights.
12. CONTRACTOR shall provide a safe work zone to prevent public from entering the "Fall Zone".
13. CONTRACTOR shall not use tree climbing spikes to install the lighting.
14. No screws, staples or bolts shall be bored or drilled into tree trunk to secure lighting to the tree.
15. CONTRACTOR shall ensure the pine leader is protected at all times.
16. No trimming or pruning of pine is allowed.
17. Lights shall be programmed from sunset until 5 a.m. the following day during the month of December, or per schedule identified by the City.

C. NON-SCHEDULED/EXTRA WORK:

1. Evaluate the specific job and labor required upon arrival at the job site; develop an estimate at no cost to CITY of the expected hours, materials and job cost; and advise Project Coordinator of cost **prior to proceeding with the work.** CITY reserves the right to accept or refuse CONTRACTOR'S offer.

Proceed with the work after receipt of written authorization by Project Coordinator.

IV. PROJECT MATERIALS: Manufacturers' names, trade names, brand names, or model numbers used in the specifications are for the purpose of describing and establishing general quality levels. Such references are not intended to be restrictive. Bids will be considered for alternative brands that meet or exceed the quality of the specifications listed for any item.

V. GENERAL REQUIREMENTS:

A. CONTRACTOR SHALL:

1. CONTRACTOR, as well as any of its subcontractors, shall possess and maintain a current City of Coronado business certificate, professional license, and Department of Industrial Relations number.
2. Provide and maintain a telephone answering system that provides for contact during normal business hours, (8:00 a.m. to 5:00 p.m.) Monday through Friday.
3. Respond to calls within four (4) hours.
4. Abide by all applicable laws.

VI GENERAL CONDITIONS:

1. All work shall be subject to the inspection and approval by the Project Coordinator or his/her designee at the site prior to acceptance and approval for payment.
2. Workers shall be courteous to the public and CITY staff utilizing the facilities and shall be responsive only to the request of the Project Coordinator, and shall direct all inquiries or requests to the Project Coordinator. Exception: If the specific request involves public safety or security of the specific facility, CONTRACTOR shall immediately comply with the request.

IN ADDITION TO THE SPECIFICATIONS, THE FOLLOWING SHALL APPLY:

VII. TERMS AND CONDITIONS:

1. **Payment:** Payment shall be net 30 days after receipt of an undisputed invoice subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the CONTRACTOR.
2. **Invoicing:** Invoices shall be submitted no sooner than the first day of the service month being invoiced. CONTRACTOR shall mail an invoice to the following address:

Accounting Technician
Public Services & Engineering Department
City of Coronado
1825 Strand Way
Coronado, California 92118

Invoices shall be subject to the routine processing requirements of the CITY'S Department of Administrative Services.

3. **Authorized Work:** Payment shall only be made to the CONTRACTOR for work authorized by this AGREEMENT.

4. **Default:** In case of default by the CONTRACTOR, the CITY may procure the service from other sources and may deduct costs from the unpaid balance due the CONTRACTOR. The prices paid by the CITY shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available at law or in equity.
5. **Change of Ownership:** CONTRACTOR agrees that if there is a change in ownership prior to completion of this AGREEMENT, the new owners will be required under terms of sale to assume this AGREEMENT and complete it to the satisfaction of the CITY. The CITY reserves the right to approve a change in ownership.
6. **CONTRACTOR Work Hours and Safety Standards:** The CONTRACTOR shall ensure compliance with all safety and hourly requirements for employees, in accordance with Federal, State, and local safety and health regulations and laws. Equipment operation will be in compliance with the CITY's noise ordinance.
7. **Material Safety Data Sheets:** CONTRACTOR is required to provide Material Safety Data Sheet (MSDS) for any hazardous substances used as required by the California State Labor Code, Sections 6382 and 6390, and the Health and Safety Code of the California Administrative Code. MSDS sheets for each item shall be sent to:

Director
Public Services & Engineering Department
City of Coronado
1825 Strand Way
Coronado, California 92118
8. **Patent/Copyright Materials:** Unless otherwise expressly provided in this AGREEMENT, CONTRACTOR shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this AGREEMENT.
9. **Declared Emergency Purchasing:** In the event of an emergency or where the CITY is declared a disaster area by the County, State or Federal Government, this AGREEMENT may be subjected to unusual usage. CONTRACTOR shall service the CITY during an emergency or declared disaster under the same terms and conditions that apply during non-disaster circumstances. The pricing quoted within shall apply to servicing the CITY'S needs regardless of the circumstances.
10. **Terms and Conditions:** The only terms and conditions that will be applicable to the interpretation of this AGREEMENT are those issued by the Contract Officer.

The CONTRACTOR acknowledges that CONTRACTOR has read and agrees to all terms and conditions.

EXHIBIT 1: ROTARY PARK TREE PHOTO



EXHIBIT II: PROJECT SPECIFICATIONS

120' Coronado Christmas Tree

- Ever green tree shall be wrapped with C-9 LED multi-color Strands Lights that will sway around exterior of the foliage.
- Multi-Color lights with Cool White Shimmer effect.
- 4' Star Tree Topper

C-9 LED Multicolor Lights 12,000 Bulbs

- Red, Orange, Yellow, Green, Blue,
Cool white 6" spaced wire

C-9 Cool White Strobe (Shimmer Effect) Spaced every 10 ft on Strand

- Spaced Multi-color C9 line to create a shimmer effect Qty x1,000

Tree Topper

- 48 Inch Shimmering Warm & Cool White LED Crystal 8 Point Star Tree Topper

Flood / Wash Lights

- Placed in middle section of tree, pointed up and down, used to insight light of branches with multiple color cycle.

ATTACHMENT B

FEE SCHEDULE/GENERAL INFORMATION

In compliance with the Request for Bids, the CONTRACTOR hereby agrees to furnish all labor, materials, equipment and supervision to perform the SERVICES in strict accordance with the provisions of this AGREEMENT for a total fixed fee of \$53,750 per year, with 50% of amount due the responsibility of the CITY and the other 50% due the responsibility of the Coronado Tourism Improvement District (Discover Coronado).

The Coronado Tourism Improvement District (Discover Coronado) will make one lump sum payment on or before November 30th of each year during the contract term. CONTRACTOR acknowledges and agrees that the CITY is responsible for paying CONTRACTOR a maximum of \$53,750 per year, or \$268,750 total for the five-year term of the AGREEMENT. Discover Coronado is responsible for the balance of the annual payment \$26,875 per year, or \$134,375 total for the five-year term, to the CITY.

The CITY shall invoice Discover Coronado on or around November 1st each year. The CONTRACTOR shall submit an invoice for partial payment, equal to half of the total amount due on or around November 1st. CONTRACTOR shall submit a final invoice to the CITY at the end of the season for the balance due. The fixed fee is all-inclusive. There are no reimbursable expenses.

AMOUNT	Due Date	INVOICE #
\$26,875	Nov 1 st	#386514-000239
\$26,875	Jan 15 th	#386514-000238

ATTACHMENT C

LIST OF SUBCONSULTANTS/ SUBCONTRACTORS

Listed below are any and all subcontractors that the BIDDER plans to employ under this AGREEMENT. No change is allowed without the prior approval of the Contract Officer.

NAME	ADDRESS	PHONE	DIR PW#	License#	\$ Value

I hereby certify that I have read and examined Sections 3700 and 3800 of the State Labor Code. I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability for Workmen’s Compensation or to undertake self-insurance before commencing any of the work. I further certify that if I should contract or subcontract with any person, including a firm or company, to do all or any part of the work for which this BID covers, I shall assure compliance by that contractor or subcontractor with Sections 3700 and 3800 of the State Labor Code.

CONTRACTOR NAME: McCarty Event Lighting dba San Diego Socialights

_____ Date
 Kelly McCarty, CEO

ATTACHMENT D

**“A POLLUTION PREVENTION GUIDE FOR THE CONSTRUCTION INDUSTRY”
BROCHURE**

I certify that I have read, understand and will comply with the procedures described in “A Pollution Prevention Guide for the Construction Industry” brochure located in the attached web address:

<https://www.coronado.ca.us/pollutionpreventionguidelines>

CONTRACTOR NAME: McCarty Event Lighting dba San Diego Socialights

Kelly McCarty, CEO

Date