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**MAINTENANCE AGREEMENT BETWEEN THE
CITY OF SAN DIEGO AND THE GREATER GOLDEN
HILL COMMUNITY DEVELOPMENT CORPORATION**

THIS MAINTENANCE AGREEMENT "Agreement" is made and entered into this _____ day of _____, 2008 by and between the City of San Diego, a municipal corporation ("City"), and the Greater Golden Hill Community Development Corporation, a non-profit corporation, ("GGHCDC").

RECITALS

WHEREAS, the City desires to retain the services of GGHCDC to provide administration of the maintenance services to Greater Golden Hill Maintenance Assessment District, ("District"); and

WHEREAS, the boundaries of the District are generally defined as follows: within the area bordered by Juniper street on the north, Balboa Park and I-5 on the west, Martin Luther King Freeway(SR 94) on the south and Escondido Freeway (I-15) and 34th Street north of Beech Street on the east; and

WHEREAS, the GGHCDC has provided a petition to the City representing at least a majority of the property owners in the District, weighted by the dollar amount of their assessments in the District, in support of the GGHCDC's role to assume the responsibility for administration of Contracts for Goods and Contracts for Services (as these terms are defined in San Diego Municipal Code 65.0202) for the District for a period of one year in accordance with the San Diego Municipal Code Section 65.0212; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and for other valuable consideration which is hereby acknowledged, the City and the GGHCDC hereby agree as follows:

ARTICLE I

SCOPE OF SERVICES

A. GENERAL SERVICES

1. The GGHCDC shall provide: administration of the Contracts for Goods and Contracts for Services and prepare financial statements for the District in connection with provisions of the "Maintenance Assessment Districts Ordinance" (being Division 2, Article 5, Chapter VI, beginning at Section 65.0201 of the San Diego Municipal Code), and the provisions of the "Landscaping and Lighting Act of 1972" (being Part 2 of Division 15 of the California Streets and Highways Code), for services to the District as set forth in the engineer's report ("Engineer's Report") for the District.

2. The GGHCDC shall perform all duties and services specifically set forth herein as reasonable and necessary to accomplish the intent of this Agreement in a manner consistent with the standards outlined in this Agreement.

B. SPECIFIC REQUIREMENTS

1. The GGHCDC at a minimum, shall provide the following maintenance standards within the boundaries of the District as described for each Zone in the Engineer's Report:
 - (a) **Debris and Litter Control** (Two days per week)
Remove litter, trimmings, debris, rubbish and other solid waste from right-of-way sidewalks, curbs, gutters and landscaped areas. All trash removed will be disposed of at a City-approved waste site.
 - (b) **Tree Maintenance and Replacement** (Ongoing)
All trees located in the public right-of-way in the District shall be maintained in a manner which promotes healthy tree growth, including, but not limited to, cultivation, irrigation, trimming, spraying, collection and disposal of fallen branches, tree and bush trimming, fertilizing, or treating for disease or injury. All tree trimming and tree replacement shall be conducted by a certified arborist and pest applications shall be conducted by certified professional applicators.
 - (c) **Basic Landscape Services** (Ongoing)
All plant material in the public right-of-way shall be maintained in optimum condition and landscaped areas shall be kept weed free. Street gutters shall be kept free of dirt, sand and debris. The landscape irrigation system shall be properly maintained to ensure optimum tree health and plant growth. Trash receptacles and street benches shall be repaired or replaced as needed.
 - (d) **Graffiti Control** (Two days per week)
All graffiti shall be removed from the public right-of-way by cleaning, sandblasting, and and/or painting of walls, and other improvements to remove or cover graffiti. All graffiti observed on private property shall be reported for repair within twenty-four (24) hours to the GGHCDC, the City, Neighborhood Services, Planning and Development Business Center, or Neighborhood Code Compliance Department/Graffiti Control Program (619-525-8522).
 - (e) **Sidewalk Safety Hazards** (Ongoing)
All sidewalk safety hazards which are observed in the course of providing enhanced maintenance services, as described in this Agreement (including damaged meter boxes and street vaults), shall be barricaded immediately and then, immediately following barricading, reported for repair to the City's General Services Department: Street Division. If an unsafe

sidewalk condition exists and is reported to the City's Street Division (at 619-527-7500 OR e-mail www.sandiego.gov and select Request a Street Repair – either means of reporting provides a “standard notification number” confirming that the report was made and received), the City will take action to temporarily mitigate the potential hazard and notify abutting property owners of their responsibility to permanently repair/replace the sidewalk. The GGHCDC shall have no obligation to repair or otherwise protect against such conditions, and shall have no liability to the City or any third party for claims or loss related to such conditions, except to the extent the condition is directly caused by the negligence or willful misconduct of the GGHCDC, its employees or agents or if the observed condition is not immediately barricaded and reported as required in this provision.

- (f) Sidewalk Sweeping (Twice/week) and Power Washing (as needed)
Ongoing inspection and repairs of gutter and sidewalk cleaning and sweeping.
 - (g) Lighting Service (Twice a week)
Street light lamps observed to be out or street light poles which have been damaged shall be immediately reported for repair to the City, Public Works Business Center, Transportation Department/Electrical Section, General Information and Service Requests, Street Light and Traffic Signal Maintenance (619-527-8056).
 - (h) Large Bulk Item Pickup and removal of illegal dumping (As needed)
All large bulk items and illegal dumps of trash and personal property in the public right-of-way will be removed within three days of notification to City.
 - (i) Enhanced Trash Receptacles and Recycling (Twice a week)
Empty public trash receptacles as designated in the streetscape manual, located on public sidewalks throughout District, pursuant to a schedule developed in coordination with the City's schedule.
 - (j) Decorations and Banner Installation (As needed)
 - (k) Trail and Canyon Beautification (Quarterly)
2. The GGHCDC shall conduct on-site inspections of all work done in the District and shall submit a report to the City indicating that such on-site inspections have been completed.
 3. City staff shall conduct four District inspections per year to evaluate compliance with the above referenced maintenance standards. A City inspection report shall

be supplied to the GGHCDC with a one week requirement to correct any deficient standard reported. The inspections will be completed by City staff every three months.

4. The GGHCDC shall be responsible for responding, in writing, to the City regarding District maintenance complaints received by the City.
5. The GGHCDC shall provide at least one noticed meeting with the property owners within the District annually and attempt to meet on a regular basis with the relevant planning group or property owners within the District. The regular meeting shall be used to finalize plans and specifications for improvements and maintenance as described in the Engineer's Report, evaluate the performance of any maintenance contractor, and advise the GGHCDC regarding the improvements and regular maintenance as described in the Engineer's Report for the District. With respect to the regular meeting, the GGHCDC shall use its best efforts to contact either orally or in writing the relevant community planning group or designated property owners' representatives of the District, and provide notice in community newspapers, if available.
6. The GGHCDC shall submit to the City no later than March 1 of each year a District approved, line-item budget for the upcoming Fiscal Year. This proposed budget for services in the District will be included in the Greater Golden Hill Maintenance Assessment District Engineer's Report each year.
7. The GGHCDC shall maintain a separate set of books and records for costs associated with the GGHCDC's responsibilities under this Agreement for annual audit at the expense of the District. All records shall be made available for inspection and photocopying by the City upon reasonable notice. The City's rights with respect to such records are further governed by the provisions of Article V of this Agreement. The GGHCDC shall maintain such books and records for a period of three years following completion of this Agreement.

ARTICLE II

SERVICES PROVIDED BY THE CITY

A. BUDGET

1. The City shall carry out all actions reasonably necessary for processing the annual budget for maintenance of the District.
2. The City shall review the GGHCDC's proposed maintenance operations in processing the annual budget for the District.
3. The City may amend line items in the annual budget upon a written request from the GGHCDC, as long as the amendments would not increase the total amount authorized for reimbursement to the GGHCDC.

B. SERVICES

1. The City shall conduct at least four on-site inspections of the District during the period of this Agreement. In the event the City determines from such inspections that the District is not being properly administered by the GGHCDC, a report of such findings will be presented first to the GGHCDC, and if not satisfactorily corrected within thirty calendar days will then be presented to the City Council. City Council may use such findings as the basis for termination of this Agreement pursuant to Article VI hereof and San Diego Municipal Code Section 65.0212.
2. The City shall reserve the right to deploy its public safety personnel in a manner which, in the City's sole discretion, best serves the needs of the public. Further, nothing in this Agreement shall be deemed to abrogate or waive the provisions of California Government Code Section 845.
3. The City shall coordinate the collection of assessments with the County of San Diego and provide administrative services, general assistance and information to the GGHCDC.

ARTICLE III

COMPENSATION AND REIMBURSEMENT

A. INVOICES

1. The GGHCDC shall submit monthly reimbursement requests to the City. The City shall reimburse the GGHCDC from District funds within thirty working days of receipt of a proper reimbursement request. The request must include both a Trial Balance and Summary of Expenses as of the period claimed. The Summary of Expenses shall detail expenses by expenditure category and line item as reflected in the approved District budget.
2. All invoices shall include the names and rates of pay for contracted personnel who have performed services on behalf of the District, the hours worked, and details of any reasonable and necessary out-of-pocket expenses.

B. COMPENSATION

1. The GGHCDC shall be compensated for its services pursuant to this Agreement solely by the terms of this Section III(B). The GGHCDC shall be authorized to add to the reimbursement requests made under this Article III an additional fifteen percent (15%) of the total amount actually expended by the GGHCDC for the wages and salaries of employees, only to the extent such salaries compensate for activities directly undertaken for the administration of the District, as "Administrative Overhead." The GGHCDC shall not be authorized to include charges for Administrative Overhead in connection with any of the following expenses: (1) monies expended for the purchase of goods or supplies; (2) sums paid to third party contractors for the preparation of the assessment Engineer's

Report; and/or (3) general business expenses such as office rent, office equipment, accounting and auditing expenses, insurance premiums, copying, printing, or postage fees. The GGHCDC shall not be authorized to include charges for Administrative Overhead on any amounts paid by the GGHCDC that contain any administrative charges by the billing entity. If the GGHCDC enters into any contracts with third parties for the performance of any of GGHCDC's duties under this Agreement and any such contract includes an administrative charge, the GGHCDC shall not be entitled to receive Administrative Overhead reimbursements for its own administration activities related to the work performed by third party contractors.

2. Administrative overhead reimbursement to the GGHCDC shall be limited to the lesser of: (1) \$73,334 (or \$6111.17 per month) over the life of this Agreement, or (2) fifteen percent (15%) of the estimated assessment revenues in the District, which ever amount is smaller.
3. The City shall be reimbursed the greater of \$19,556 of annual assessments for administrative services associated with the annual budget processing, property tax enrollment and collections, professional engineering services, on-site inspections, and audit services from the District budget.

C. ADVANCES

1. Upon a written request from the GGHCDC, the City may make a cash advance of two months of working capital to the GGHCDC based on the District's monthly cash flow budget requirements related to the approved District budget. If the District reserves are not adequate to cover the working capital advance request, an advance will be based on available cash at the time of the request.
2. The advance will be returned on or before the termination of this Agreement as either a reduction of the final reimbursement request or a transfer of funds from the GGHCDC.

D. SUSPENSION OF PAYMENT

If the GGHCDC fails to perform any of its obligations as set forth in this Agreement, the City shall have the right to suspend the payment of Administrative Overhead fees to the GGHCDC pursuant to Article III until such time as the GGHCDC is in compliance with the terms hereof. If, as a result of GGHCDC's failure to perform, the City elects to withhold payment hereunder, the City shall give GGHCDC written notice of its intention to suspend payment of Administrative Overhead fees until GGHCDC has cured its noncompliance herewith. Such notice shall provide GGHCDC with a description of the failure to perform upon which the City has based its suspension of payment hereunder. Upon the performance by the GGHCDC of its obligations under this Agreement, the City shall resume payments of Administrative Overhead to the GGHCDC in conformance with the terms of Article III as set forth above, including payment of any amounts for which payment was suspended hereunder.

ARTICLE IV

EFFECTIVE DATE AND TERM

This Agreement shall be effective from July 1, 2007 through June 30, 2008, and continue until completion of the scope of services, or upon written notice of cancellation, but in no event shall it exceed one year. This Agreement may be renewed each year at the City's sole option.

ARTICLE V

DOCUMENTS, RECORDS AND REPORTS

A. OWNERSHIP OF DOCUMENTS

1. Once the GGHCDC has been compensated for services performed, all documents, including, but not limited to reports and maps prepared in connection with or related to the scope of services, shall be the property of the City.
2. The City's ownership of these documents includes all incidental rights, whether or not the work for which they were prepared has been performed.
3. Article V, Section A shall apply whether the Agreement is terminated by the completion of the services, by the expiration of this Agreement under Article IV, or in accordance with any other provisions of this Agreement.
4. Notwithstanding the foregoing, the GGHCDC shall have the right, at its sole cost, to make copies of the documents.

B. AUDIT AND INSPECTION OF RECORDS

1. At any time during normal business hours and as often as the City deems necessary, the GGHCDC and any or all subcontractors shall make available to the City for examination at reasonable locations within the City/County of San Diego all data and records relating to all matters covered by this Agreement. The GGHCDC and all subcontractors will permit the City to make audits of all invoices, materials, payrolls, records of personnel, and other data and media relating to all matters covered in this Agreement.
2. The GGHCDC and subcontractors shall maintain such data and records for a period of three years following receipt of the final payment of this Agreement. With respect to receipts, canceled checks, and other evidence of payments for which the GGHCDC is reimbursed by the City pursuant to this Agreement, the GGHCDC shall maintain such documentation at its principal place of business in the City of San Diego for the required period of time. With respect to all other records covered by this Article V, Section B, if the GGHCDC does not make them available within the City of San Diego, then the GGHCDC shall pay all

City's travel related costs to audit records associated with this Agreement where records are maintained.

C. FINANCIAL REPORTS

The GGHCDC shall provide an audited financial statement of the District within ninety days after the end of its fiscal year. The financial statements must be prepared in accordance with Generally Accepted Accounting Principles and audited by an independent Certified Public Accountant (CPA) in accordance with Generally Accepted Auditing Standards (GAAS). The statements must include a Statement of Expenditures of the District's funds identified in the same expenditure classifications as contained in the City's final budget and show a comparison to the budget amounts, and a Statement of Compliance with the terms of this Agreement signed by the GGHCDC. Failure to comply with these requirements could result in suspension of any current payments or possible future funding.

ARTICLE VI

TERMINATION

A. CITY'S RIGHT TO TERMINATE FOR DEFAULT

1. If the GGHCDC fails to perform or adequately perform any obligation required by this Agreement, the GGHCDC's failure shall constitute a default. The City's Mayor or designee shall promptly give the GGHCDC written notice of the occurrence of the default, and shall allow the GGHCDC thirty days thereafter to cure the default, or to submit a written plan of action to cure such a default within a reasonable and safe period of time thereafter. Failure to cure the default or timely submit the plan of action within the thirty-day period, or failure to adhere to the plan of action, shall entitle the City Council to terminate this Agreement in accordance with San Diego Municipal Code Section 65.0212.
2. Notwithstanding the foregoing, if the nature of the default could endanger the public's health and safety, the GGHCDC shall cure the default within twenty-four hours of receipt of notice of the default and application of this Article VI, Section A of the Agreement. If the GGHCDC fails to actually and timely cure the default, then the City Council may, in its sole and absolute discretion, terminate this Agreement.

B. NOTICE

1. The City Council may terminate this Agreement with the GGHCDC at any time provided:
 - (a) a public hearing is held on the City's intention to terminate this Agreement with the GGHCDC;

- (b) the GGHCDC is provided thirty calendar days' notice of the public hearing on the City's intention to terminate this Agreement;
 - (c) a notice of the public hearing is mailed at least fifteen calendar days prior to the public hearing to each property owner within the District; and
 - (d) the City Council determines at the conclusion of the public hearing that it is in the best interests of the District to terminate this Agreement with the GGHCDC.
2. Upon termination of this Agreement, the City shall resume administration of Contracts for Goods and Contracts for Services for the District as defined in San Diego Municipal Code Section 65.0202. The GGHCDC shall transmit to the City all funds, books, records, data, equipment and other assets of the District no later than thirty calendar days after receipt of written notice of termination. Until the actual transfer of these assets is complete, the GGHCDC shall continue to administer the Contracts for Goods and Contracts for Services for the District so that there is no interruption in or loss of service to property owners within the District.

C. CITY'S RIGHT TO TERMINATE FOR BANKRUPTCY OR ASSIGNMENT FOR THE BENEFIT OF CREDITORS

If the GGHCDC files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to or demand upon the GGHCDC, immediately cancel and/or terminate this Agreement, and terminate each and every right of the GGHCDC, and any person claiming any rights by or through the GGHCDC under this Agreement.

D. NO WAIVER OF OTHER REMEDIES

The rights and remedies of the City enumerated in this Agreement are cumulative and shall not limit the City's rights under any other provision of this Agreement or the San Diego Municipal Code, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the GGHCDC.

E. GGHCDC'S RIGHT TO TERMINATE

If the GGHCDC wishes to terminate this agreement, a written notice of termination must be issued within ninety calendar days. The GGHCDC shall transmit to the City all funds, books, records, data, equipment and other assets of the District no later than ninety calendar days of issuance of written notice of termination. Until the actual transfer of these assets is complete, the GGHCDC shall continue to administer the Contracts for Goods and Contracts for Services for the District so that there is no interruption in or loss of service to property owners within the District.

ARTICLE VII

INDEPENDENT CONTRACTOR AND DISTRICT MANAGEMENT

A. DELEGATION OF DUTIES

The GGHCDC is an independent contractor representing the owners of properties in the District. The GGHCDC will oversee the administration of the District activity through the engagement of one or more contractors to provide routine maintenance services to include trash collection and disposal, graffiti removal, repair, landscaping and lighting improvements. Accordingly, the GGHCDC duties specified in this Agreement may not be delegated by the GGHCDC without the prior written consent of the City.

B. PRINCIPAL

1. The GGHCDC agrees that Kathy Vandenneuvel shall be the primary contact for the purposes of this Agreement. GGHCDC shall coordinate the GGHCDC's activities for the engagement and shall participate in all phases of the engagement. In order to simplify invoice processing, it is agreed by the GGHCDC that Kathy Vandenneuvel will act as billing agent for work provided by the GGHCDC.
2. The GGHCDC's management of the services of this Agreement is of substantial concern and importance to the City, requiring coordination with City services. The quality of performance will reflect on the City and its management. Accordingly, the City requires GGHCDC to inform the City on a regular basis of any changes in the Officers of the GGHCDC and of the identity of its subcontractors and their areas of responsibility.

ARTICLE VIII

COVENANTS AND CONDITIONS

All provisions hereof expressed as either covenants or conditions on the part of the City or the GGHCDC to be performed or observed shall be deemed to be both covenants and conditions.

ARTICLE IX

COMPLIANCE WITH CONTROLLING LAW

The GGHCDC shall comply with all applicable laws, rules, regulations, ordinances, resolutions and policies of the federal, state, and local governments as they pertain to this Agreement. In addition to the foregoing, the GGHCDC shall comply immediately with any and all directives issued by the City or its authorized representatives under authority of any laws, rules, regulations, ordinances, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

ARTICLE X

ACCEPTABILITY OF WORK

The City shall decide any and all questions that may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to the GGHCDC, the acceptable completion of this Agreement, and the amount of compensation due. In the event the GGHCDC believes that any requirement of the City interferes with or affects the independence of the GGHCDC, the GGHCDC shall confer with the City in order to resolve any possible conflict. In the event the GGHCDC and the City cannot agree as to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the GGHCDC in this Agreement, the City or the GGHCDC shall give to the other written notice thereof. No later than ten calendar days thereafter, the GGHCDC and the City shall each prepare a written report that supports their position and file the same with the City and the other party. Thereafter, the City shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance, and/or the compensation payable to the GGHCDC. This is not intended to be in any arbitration dispute between the parties of this Agreement.

ARTICLE XI

INFORMAL DISPUTE RESOLUTION

If the GGHCDC and the City have any dispute as to their respective rights and obligations under this Agreement, or the meaning or interpretation of any provisions hereof, they shall first attempt to resolve such disputes by informal discussion between their respective principals. Within five calendar days of determining the existence of any such dispute, the party determining there is such dispute shall give written notice of the existence of the dispute and the need to meet informally to resolve such dispute. The parties shall endeavor thereafter to meet within five days of the second party's receipt of such notice, or at such time thereafter as is reasonable under the circumstances.

ARTICLE XII

INDEMNIFICATION

The GGHCDC agrees to defend, indemnify, protect and hold the City, and all of its officers, agents and employees harmless from any and all actions, suits, proceedings, liability, claims, demands for, damages or injuries to, any person, including injury to the GGHCDC's officers, agents, and employees, and all claims that may arise from or are directly connected with or attributable to the negligence or failure to perform professional services or other obligations of this Agreement, or are caused or claim to be caused by the acts or omissions of the GGHCDC, its officers, agents or employees, and all expenses of investigating and defending against same; provided, however, that this duty to defend, indemnify and hold harmless shall not include any claim arising from the established sole negligence or willful misconduct of the City, its officers, agents or employees.

ARTICLE XIII

INSURANCE

A. PREREQUISITES TO COMMENCEMENT OF WORK

1. Prior to the execution of this Agreement by the Parties and approval by the City Attorney in accordance with Charter Section 40, and prior to GGHCDC's performance of its obligations and/or duties under this Agreement, GGHCDC shall complete each of the following:
 - (a) obtain City approval of each insurance company (or companies), as required in Section B below;
 - (b) obtain all insurance coverage required in Sections XIII(C); XIII(D); and XIII(E), below;
 - (c) obtain, and provide to the City, insurance certificates evidencing all insurance coverage required in Sections XIII(C); XIII (D); and XIII (E), below; and
 - (d) confirm that all insurance policies and insurance certificates contain the specific provisions required by Sections XIII (C); XIII (D); and XIII (E), below.
2. GGHCDC shall not allow any subcontractor to commence work on a subcontract in connection with this Agreement, unless and until all insurance required of the subcontractor, as described in Sections XIII (C), XIII (D), and XIII (E), below, has been obtained.

B. INSURANCE COMPANIES

All insurance coverage required in Sections XIII(C), XIII (D), and XIII (E), below, shall be carried only by insurers that have been rated "A-,VI" or better, by the current A.M. Best Key Rating Guide, that are licensed to do business in the State of California, and that have been approved by the City. The City will accept insurance provided by non-admitted "surplus lines" carriers, only if the carrier is authorized to do business in the State of California and is shown on the List of Eligible Surplus Lines Insurers.

C. COMMERCIAL GENERAL LIABILITY INSURANCE

1. At all times during the term of this Agreement, GGHCDC, at its own expense, shall maintain, in full force and effect, Commercial General Liability Insurance, written on an ISO Occurrence form CG 00 01 07 98, or an equivalent form providing coverage at least as broad, which shall cover liability arising from any and all personal injury, bodily injury, and property damage in the amount of \$1,000,000 per occurrence, subject to an annual aggregate of \$2,000,000.
2. The policy shall expressly provide that:
 - (a) all defense costs shall be outside the limits of the policy; and
 - (b) the policy cannot be cancelled or materially changed, except after thirty calendar days written notice by the insurer to the City by certified mail.
3. The policy shall be endorsed to expressly provide that:
 - (a) The City of San Diego, its elected officials, officers, agents, employees, and representatives are named as additional insureds; and
 - (b) the policy is primary and non-contributory to any insurance that may be carried by the City.
4. There shall be no endorsement or modification of the policy limiting the scope of coverage for insured versus insured claims, or for contractual liability.

D. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

1. At all times during the term of this Agreement, GGHCDC shall maintain in full force and effect Commercial Automobile Liability Insurance for all of Corporation's automobiles (including owned, hired, and non-owned automobiles), 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, which shall cover liability arising from any and all bodily injury and property damage, for a combined single limit of \$1,000,000 per occurrence.
2. The policy shall expressly provide that the policy cannot be cancelled or materially changed, except after thirty calendar days written notice by the insurer to the City by certified mail.
3. The policy shall be endorsed to expressly provide that The City, its elected officials, officers, agents, employees, and representatives are named as additional insureds.

E. WORKERS' COMPENSATION INSURANCE

1. At all times during the term of this Agreement, GGHCDC shall maintain in full force and effect Workers' Compensation Insurance for all of GGHCDC's employees who are subject to this Agreement, to the extent required by the State of California, providing a minimum of \$1,000,000 of employers' liability coverage.
2. The policy shall expressly provide that the policy cannot be cancelled or materially changed, except after thirty calendar days written notice by the insurer to the City by certified mail.
3. The policy shall be endorsed to expressly provide that the insurer waives the right of subrogation against The City of San Diego, its elected officials, officers, agents, employees, and representatives.

F. ENDORSEMENTS

All endorsements required under Sections XIII (C), XIII (D), and XIII (E) above shall be in full force and effect for the entire term of this Agreement.

G. CITY'S RIGHT TO REQUEST AND REVIEW CORPORATION'S INSURANCE POLICIES

The City reserves its right to request, and GGHCDC shall immediately submit to the City upon the City's request, copies of any policy required in Sections XIII (C), XIII (D), and XIII(E) above, and its right to review, at any time, GGHCDC's insurance coverage, limits, deductibles, and self-insured retentions to determine if they are acceptable to the City. If the City determines that such insurance coverage, limits, deductibles, and/or self-insured retentions are unacceptable, the City and GGHCDC shall amend this Agreement to adjust such insurance coverage, limits, deductibles, and/or self-insured retentions to a level acceptable to the City, and GGHCDC shall comply with any such amendment.

H. DEDUCTIBLES AND SELF-INSURED RETENTIONS

All deductibles and self-insured retentions on any policy shall be the responsibility of GGHCDC, and shall be disclosed on the insurance certificates and acceptable to the City.

I. CORPORATION'S LIABILITY NOT LIMITED TO INSURANCE COVERAGE

GGHCDC's liability, including, but not limited to, GGHCDC's indemnity obligations under this Agreement, shall not be deemed limited in any way to the insurance coverage required in this Article.

J. MODIFICATIONS AFFECTING CITY'S EXPOSURE TO LOSS

GGHCDC shall not modify any policy (or endorsement thereto), which increases the City's exposure to loss for the duration of this Agreement.

K. ADDITIONAL INSURANCE

GGHCDC may obtain additional insurance not required by this Agreement.

L. EXPIRATION OF POLICIES

At least thirty calendar days prior to the expiration of each insurance policy required herein, GGHCDC shall provide the City an insurance certificate, showing that a new or extended policy has been obtained which meets the requirements of this Agreement.

M. REQUIREMENT TO MAINTAIN INSURANCE COVERAGE

GGHCDC's maintenance of the insurance coverage required in Sections XIII(C), XIII(D), and XIII(E) above is a material provision of this Agreement. Any failure by GGHCDC to maintain or renew such coverage, or to provide the City evidence of renewal, during the term of this Agreement, shall constitute a material breach of contract.

ARTICLE XIV

CONFLICT OF INTEREST

- A.** The GGHCDC is aware of and is subject to all federal, state, and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Sections 1090, et. seq., and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at Sections 27.3501 to 27.3595.
- B.** If, in performing the Professional Services set forth in this Agreement, the GGHCDC makes, or participates in, a "governmental decision" as described in Title 2, Section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the GGHCDC shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the GGHCDC's relevant financial interests.
- C.** Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The GGHCDC shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the GGHCDC is subject to a conflict of interest code. The GGHCDC shall also file a Form 700 (Annual Statement) on or before April 1, 2008 disclosing any financial interests held during the previous calendar year for which the GGHCDC was subject to a conflict of interest code.

- D. If the City requires the GGHCDC to file a Statement of Economic Interests as a result of the Professional Services performed, the Consultant shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.
- E. The GGHCDC shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships. If the GGHCDC violates any conflict of interest law, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the GGHCDC to liability to the City for attorneys' fees and all damages sustained as a result of the violation. It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Sections 1090, et seq., and Sections 87100, et seq., of the California Government Code relating to conflicts of interest for public officers and employees, as well as the conflict of interest codes of the City. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of the City relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the City shall immediately terminate this Agreement by giving written notice thereof. The GGHCDC agrees to abide with Sections 87100, et. seq., of the California Government Code during the term of the Agreement. The City may determine that the GGHCDC is subject to a conflict of interest code and is required to complete one or more statements of economic interest disclosing relevant financial interests. Upon the City's request, the GGHCDC shall submit the necessary documentation.

ARTICLE XV

ATTORNEYS' FEES

If either party brings any action or proceeding to enforce, protect or establish any right or remedy arising out of or based upon this Agreement, including, but not limited to, the recovery of damages for its breach, the prevailing party in said action or proceeding shall be entitled to recovery of its costs and reasonable attorneys' fees.

ARTICLE XVI

NOTICES

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage paid. When so given, such notice shall be effective from the date of mailing of the same. For the purpose hereof, unless otherwise provided by notice in writing from the respective parties, notice to the City shall be addressed to City of San Diego, City Planning and Community Investment, Economic Development Division, 1200 Third Avenue, Suite

1400, MS-56D, San Diego, California 92101. Notice to the GGHCDC shall be addressed to Kathy Vandeneuval, Greater Golden Hill Community Development Corporation, 1235 28th Street, San Diego, CA 92102. Either party may change the address for its receipt of notice hereunder by giving notice thereof in the manner herein specified. Nothing herein contained shall preclude or render inoperative service or such notice in the manner provided by law.

ARTICLE XVII

CONTRACTS AWARDED BY GGHCDC

The GGHCDC shall comply with the San Diego Municipal Code Sections 65.0212 (c)(6) and 65.0214 for the award of any contract pertaining to the District.

ARTICLE XVIII

NON-DISCRIMINATION REQUIREMENTS

A. EQUAL OPPORTUNITY CONTRACTING PROGRAM

The GGHCDC and each of its Subcontractors shall comply with the City's Equal Opportunity Contracting Consultant Requirements which is attached hereto as Exhibit A and incorporated herein by this reference.

B. NON-DISCRIMINATION ORDINANCE

The GGHCDC shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. The GGHCDC shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. The GGHCDC understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the GGHCDC and any subcontractors, vendors and suppliers.

C. COMPLIANCE INVESTIGATIONS

Upon the City's request, the GGHCDC agrees to provide to the City, within 60 calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the GGHCDC has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the GGHCDC for each subcontract or supply contract. The GGHCDC further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's NONDISCRIMINATION IN CONTRACTING ORDINANCE (Municipal Code Sections 22.3501-22.3517.) The GGHCDC understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in remedies being ordered against the GGHCDC up to and including contract termination, debarment, and other sanctions for violation of the provisions of the

NONDISCRIMINATION IN CONTRACTING ORDINANCE. The GGHCDC further understands and agrees that the procedures, remedies and sanctions provided for in the **NONDISCRIMINATION ORDINANCE** apply only to violations of said **NONDISCRIMINATION ORDINANCE**.

ARTICLE XIX

STORM WATER POLLUTION PREVENTION

The GGHCDC and each of its Subcontractors shall comply with the Storm Water Management And Discharge Control ordinance, San Diego Municipal Code Section 43.0301, which is attached hereto as Exhibit B and incorporated herein by this reference, in performing or delivering services in the District regardless of location.

ARTICLE XX

DRUG-FREE WORKPLACE

The GGHCDC agrees to comply with the City's Drug Free Workplace requirements. Every person or organization awarded a contract by the City of San Diego for the provision of services shall certify to the City that it will provide a drug-free workplace. Any subcontract entered into by the GGHCDC pursuant to this Agreement shall contain this provision.

ARTICLE XXI

AMERICANS WITH DISABILITIES ACT

Every person or organization awarded a contract, lease, or grant by the City of San Diego acknowledges and agrees that it is aware of and will comply with Council Policy 100-04, adopted by Resolution No. 282153 relating to the federally-mandated Americans with Disabilities Act ("ADA"). Contractors and subcontractors will be individually responsible for their own ADA program.

ARTICLE XXII

EMPLOYMENT OF CITY STAFF

This Agreement may be unilaterally and immediately terminated by the City if the GGHCDC an individual, who, within 12 months immediately preceding such employment did, in the individual's capacity as a City officer or employee, participate in, negotiate with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the GGHCDC for this project.

ARTICLE XXIII

MISCELLANEOUS PROVISIONS

A. MUNICIPAL POWERS

Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

B. CALIFORNIA LAW

This Agreement shall be construed and interpreted in accordance with the laws of the State of California. The GGHCDC covenants and agrees to submit to the personal jurisdiction of any state court in the City of San Diego, State of California for any dispute, claim or matter arising out of or related hereto.

C. INTEGRATED AGREEMENT

This Agreement including Attachments and/or Exhibits contains all of the agreements of the parties and all prior negotiations and agreements are merged herein. This Agreement cannot be amended or modified except by written agreement, and mutually agreed upon by the City and the GGHCDC.

D. SEVERABILITY

The unenforceability, invalidity or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid or illegal.

E. WAIVER

The failure of the City to enforce a particular condition or provision of this Agreement shall not constitute a waiver of that condition or provision or its enforceability.

F. HEADINGS

All headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

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G. COUNTERPARTS

This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all parties had executed the same page.

IN WITNESS WHEREOF, this Agreement executed by City of San Diego acting by and through its City's Mayor and by the GGHCDC pursuant to Resolution No. _____ .

Dated the _____ day of _____, 2008.

THE CITY OF SAN DIEGO

By: _____
William Anderson
Deputy Chief

Date: _____

**GREATER GOLDEN HILL COMMUNITY
DEVELOPMENT CORPORATION**

By: _____
Kathy Vandenheuvel, President

Date: _____

I HEREBY APPROVE the form and legality of the foregoing Agreement this _____
day of _____, 2008.

MICHAEL J. AGUIRRE, City Attorney

By: _____
Kimberly K. Harris
Deputy City Attorney