

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF COSTA MESA
AND THE PAYOMKAWICHUM KAAMALAM
JUANEÑO BAND OF MISSION INDIANS, ACJACHEMEN NATION**

THIS MEMORANDUM OF UNDERSTANDING (“Agreement”), dated as of February 1, 2018 (“Effective Date”), is made and entered into by and between the City of Costa Mesa, a municipal corporation (“City”), and the Payomkawichum Kaamalam Juaneño Band of Mission Indians, Acjachemen Nation, a 501(c)(3) non-profit organization (“Tribe”).

RECITALS

WHEREAS, Tribe is a sovereign Native American tribe and a 501(c)(3) non-profit organization; and

WHEREAS, Tribe provides Native American Monitoring services for projects in culturally significant sites; and

WHEREAS, City’s Fairview Park is considered a culturally significant site; and

WHEREAS, City and Tribe desire to contract for Tribe’s services on an as-needed basis in connection with various projects in City’s Fairview Park and other culturally significant sites throughout the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

1. OBLIGATIONS OF CITY

City hereby agrees to the following:

- (a) City will notify Tribe when it has a work assignment requiring Tribe’s services.
- (b) City will designate a Project Manager to explain each work assignment, work schedule, and City rules, regulations, and procedures.

2. OBLIGATIONS OF TRIBE

Tribe hereby agrees to the following:

- (a) To provide Tribe members to provide Native American Monitoring services, as set forth in Tribe’s Proposal, attached hereto as Exhibit “A” and incorporated herein by this reference, for City construction projects in City’s Fairview Park and such other locations as City and Tribe deem culturally significant. Tribe understands that projects will generally require at least one Native American monitor for approximately one to two weeks’ duration depending on the scope of work. City and Tribe shall mutually agree to the number of monitors required in connection with each project.

- (b) To ensure that each Tribe member that provides Native American Monitoring services in connection with this Agreement is thoroughly screened, tested, and trained in accordance with Tribe's internal procedures.
- (c) To appoint a Program Manager to act as liaison between the City and Tribe during the term of the Agreement. The Program Manager shall coordinate the activities of the Tribe members providing Native American Monitoring services.
- (d) To provide all necessary tools, gloves, and protective safety equipment, including but not limited to rain suits and rubber boots, as warranted by the work assignment.

3. TERM

3.1 Term. This Agreement will commence on the Effective Date and will continue for a period of three (3) years, unless sooner terminated as provided herein.

3.2 Termination. City reserves and has the right and privilege of terminating this Agreement at any time, with or without cause, by providing written notice to Tribe. The termination of this Agreement shall be effective upon receipt of the notice of termination. In the event of such termination, Tribe shall immediately stop rendering services, unless directed otherwise by City.

4. COMPENSATION

4.1 Compensation. Tribe shall be paid in accordance with the hourly rates set forth in Exhibit A. Tribe's total compensation shall not exceed Ten Thousand Dollars (\$10,000.00).

4.2 Additional Services. Tribe shall not receive compensation for any services provided outside the scope of services set forth herein unless the City or the Project Manager, prior to Tribe performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

4.3 Method of Billing. Tribe may submit invoices to City for approval on a progress basis, but no more often than twice per month. Said invoice shall be based on the total of all Tribe's services which have been completed to City's sole satisfaction. City shall pay Tribe's invoice within thirty (30) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

4.4 Records and Audit. Records of Tribe's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

5. INSURANCE

5.1 Minimum Scope and Limits of Insurance. Tribe shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Tribe agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Tribe for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Tribe shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2 Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Tribe pursuant to its contract with the City; products and completed operations of the Tribe; premises owned, occupied or used by the Tribe; automobiles owned, leased, hired, or borrowed by the Tribe."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30)

days after written notice is given to City.”

- (c) Other insurance: “The Tribe’s insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy.”
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Tribe’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

5.3 Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4 Certificates of Insurance. Tribe shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit “B” and incorporated herein by this reference.

5.5 Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Tribe may be held responsible for payments of damages to persons or property.

6. GENERAL PROVISIONS

6.1 Compliance with All Laws. Tribe and all Tribe members providing services pursuant to this Agreement shall comply with all applicable laws and regulations, including but not limited to all City policies, procedures, rules, regulations and ordinances.

6.2 Entire Agreement. This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.3 Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement. Tribe shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Tribe called for by this Agreement, except as otherwise expressly

provided in this Agreement.

6.4 Project Managers. City shall designate a Project Manager to work directly with Tribe in the performance of this Agreement. Tribe shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Tribe or its Project Manager shall attend and assist in all coordination meetings called by City.

6.5 Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO TRIBE:

Payomkawichum Kaamalam
4955 Paseo Segovia
Irvine, CA 92603
Tel: (949) 293-8522
Attn: Joyce Perry

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628
Tel: (714) 754-5303
Attn: Public Services Contract Administrator

6.6 Drug-Free Workplace Policy. Tribe shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by this reference. Tribe's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.7 Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.8 Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.9 Assignment. Tribe shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Tribe's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Tribe of Tribe's obligation to perform all other obligations to be performed by Tribe hereunder for the term of this Agreement.

6.10 Indemnification. Tribe shall protect, defend, indemnify and hold harmless City and its elected and appointed officials, officers, agents, employees, and volunteers, at Tribe's sole expense, from any and all claims, liabilities, expenses, including attorneys' fees, damage to

property or injuries to or death of any person or persons, or damages of any nature arising out of or in any way connected with the acts or omissions of Tribe, its members, employees, agents or subcontractors in the performance of this Agreement.

6.11 Independent Contractor. Tribe is and shall be acting at all times as an independent contractor and not as an employee of City. Tribe shall secure, at Tribe's expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Tribe and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Tribe shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Tribe further agrees to indemnify and hold City harmless from any failure of Tribe to comply with the applicable workers' compensation laws. City shall have the right to offset against the amount of any fees due to Tribe under this Agreement any amount due to City from Tribe as a result of Tribe's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.12 PERS Eligibility Indemnification. In the event that Tribe or any employee, agent, or subcontractor of Tribe providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Tribe shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Tribe or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Tribe and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.13 Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Tribe or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Tribe agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Tribe. City shall indemnify and hold harmless Tribe from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Tribe. Tribe shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14 Public Records Act Disclosure. Tribe has been advised and is aware that all

reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Tribe, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 et seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which Tribe informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15 Responsibility for Errors. Tribe shall be responsible for its work and results under this Agreement. Tribe, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City.

6.16 Prohibited Employment. Tribe will not employ any regular employee of City while this Agreement is in effect.

6.17 Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the Tribe's Proposal, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.18 Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19 No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Tribe and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20 Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21 Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22 Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23 Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a

waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Thomas R. Hatch
Thomas Hatch
City Manager

Date: 3/21/18

TRIBE

Joyce Perry-JOHIAN Date: 2/26/2018
Signature
Joyce Perry - President/ Tribal manager
Name and Title

[REDACTED]
Social Security or Taxpayer ID Number

ATTEST:



Brenda Green
Brenda Green
City Clerk

APPROVED AS TO FORM:

[Signature]
Thomas Duarte
City Attorney

Date: 03/20/18

APPROVED AS TO INSURANCE:

[Signature]
Ruth Wang
Risk Management

Date: 3/9/18

DEPARTMENTAL APPROVAL

[Signature]
Raja Sethuraman
Public Services Director

Date: 3-14-18

APPROVED AS TO CONTENT:

[Signature]
Robert Staples
Project Manager

Date: 2/26/18

APPROVED AS TO PURCHASING:

[Signature]
Colleen O'Donoghue
Assistant Finance Director

Date: 3/19/18

EXHIBIT A
TRIBE'S PROPOSAL

Payomkawichum Kaamalam

4955 Paseo Segovia, Irvine, Ca 92603 * 949-293-8522 office * 949-509-1051 fax * kaamalam@gmail.com

2018

Thank you for considering Payomkawichum Kaamalam (PKK) to provide Native American Monitoring services. PKK has over thirty years of experience as a cultural advocate and cultural resource manager for the Acjachemen people. Our management practices prioritize preservation and open space in order to best protect our ancestral sites. As American Indian consultants for archaeological projects, we have reviewed and written reports, negotiated with landowners for repatriation and reburial of our ancestors and their belongings. We have been instrumental in developing and educating Native and non-Native personnel in forming policies for cultural and historical preservation. As a result of our involvement with American Indian affairs, we bring a unique perspective to the management of cultural resources.

Our hourly rates are \$70.00 per hour. \$70/hour is an all-inclusive rate that includes mileage and any other expenses.

Night work, holidays, weekends and anything over 8 hours per day would be billed at time and half rate of \$105.00. There will be a 4 hour minimum. Invoices will be submitted twice a month. Payment is required within 30 days of the date of the invoice. PKK will provide daily reports with our invoice. It is requested that a forty-eight hour notice be provided to PKK before any project begins.

We look forward to working with you.



Joyce Stanfield Perry
President

EXHIBIT B

CERTIFICATES OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/07/18

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Alliant Insurance Services, Inc. 1301 Dove Street, Suite 200 Newport Beach, CA 92660	CONTACT NAME: _____	
	PHONE (A/C, No, Ext): _____	FAX (A/C, No): _____
E-MAIL ADDRESS: _____		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : GREAT AMERICAN E&S INSURANCE COMPANY		37352
INSURED PAYOMKAWICHUM KAAMALAM: THE WESTERNER-FIRST PEOPLE OF EARTH MOTHER 4955 PASEO SEGOVIA IRVINE, CA 92603		
INSURER B : _____		
INSURER C : _____		
INSURER D : _____		
INSURER E : _____		
INSURER F : _____		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INBR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GL DED: \$1,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	X		2145200 00	09/29/17	09/29/18	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) N/A PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE N/A* PRODUCTS - COM/OP AGG \$1,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY AUTO DED: \$1,000			2145200 00	09/29/17	09/29/18	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

AS RESPECTS CONTRACT FOR TRIBAL CULTURAL RESOURCES MONITORING AT CITY'S FAIRVIEW PARK. PROFESSIONAL CONSULTATING SERVICES IS COVERED AS PART OF THE GENERAL LIABILITY. THE CITY OF COSTA MESA AND ITS ELECTED AND APPOINTED BOARDS, OFFICERS, OFFICIALS, AGENTS, EMPLOYEES AND VOLUNTEERS SHALL BE NAMED AS ADDITIONAL INSURED. THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE OR SELF-INSURANCE MAINTAINED BY SUCH ADDITIONAL INSURED IS EXCESS AND NONCONTRIBUTING WITH THIS POLICY. ADDITIONAL INSURED ENDORSEMENT ATTACHED. SUBJECT TO POLICY TERMS, CONDITIONS AND EXCLUSIONS.

CERTIFICATE HOLDER **CANCELLATION**

CITY OF COSTA MESA 77 FAIR DRIVE COSTA MESA, CA 92628	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

AGENCY Alliant Insurance Services, Inc.		NAMED INSURED: SPECIAL LIABILITY INSURANCE PROGRAM (SLIP) MEMBER: PAYOMKAWICHUM KAAMALAM: THE WESTERNER-FIRST PEOPLE OF EARTH MOTHER 4955 PASEO SEGOVIA IRVINE, CA 92603	
POLICY NUMBER 2145200 00		EFFECTIVE DATE: 09/29/17	
CARRIER GREAT AMERICAN E&S INSURANCE COMPANY	NAIC CODE 37352		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 (2016/03) **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Notice of cancellation will be delivered only to the participating named insured as stated in Item 1 of the Participation Endorsement.

The Company may cancel the coverage by mailing to the first Participating Named Insured at the address shown in the participation endorsement written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. Provided that the Participating Named Insured fails to discharge, when due, any of its obligations in connection with the payment of premium for the policy or any installment thereof, the coverage may be canceled by the Company by mailing to the Participating Named Insured at the address shown in the participation endorsement, written notice stating when, not less than ten (10) days thereafter, such cancellation shall be effective.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Additional Insured - Designated Person or Organization

This endorsement modifies insurance provided under the following:

SPECIAL LIABILITY POLICY FOR PUBLIC ENTITIES AND NON-PROFIT CORPORATIONS

Name of Person or Organization:

Any person or entity that the "Named Insured" has entered into a written agreement, prior to a loss, to provide defense, indemnity or additional insured protection.

The following is added to Section V. **PERSONS OR ENTITIES INSURED:**

Any person(s) or organization(s) listed in the Schedule above is an Additional Insured, but only as respects "Personal Injury" (including "Bodily Injury") and "Property Damage" arising, in whole or in part, out of the operations of the Named Insured. The inclusion of such Additional Insured shall not serve to increase the "Company's" Limit of Liability as specified in the participation endorsement of this Policy:

However, additional insured coverage provided by this insurance will not be broader than coverage required in the written agreement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Primary and Non-Contributory Coverage Endorsement

This endorsement modifies insurance provided under the following:

SPECIAL LIABILITY POLICY FOR PUBLIC ENTITIES AND NON-PROFIT CORPORATIONS

The following is added to Section **VIII. COMMON POLICY CONDITIONS**:

If insurance similar to this insurance is held by a person or organization that is an additional insured on this policy, this insurance is primary to that other insurance. The "Company" shall not seek contribution from that other insurance for amounts payable under this insurance for liability arising out of the "Participating Named Insured's" ongoing operations performed for that person or organization under a written agreement.

However, the provisions of this endorsement do not apply to a person or organization unless the "Participating Named Insured" had a written agreement with that person or organization requiring:

- a. This insurance be primary insurance;
- b. They be an additional insured on this Policy; and
- c. The written agreement was entered into prior to the date the "Participating Named Insured's" operations for that person or organization commenced.

EXHIBIT C

CITY COUNCIL POLICY 100-5

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
 - B. Establishing a Drug-Free Awareness Program to inform employees about:

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1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- D. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- E. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- F. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

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- G. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.