

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
NMAI LLC**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of the 1st day of July, 2021 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and NMAI LLC, a California limited liability company ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide Housing Quality Standards inspection services, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibits "A" and "B" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

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

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the Scope of Services, attached hereto as Exhibit "A," and Consultant's Proposal, attached hereto as Exhibit "B" both incorporated herein.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the

matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and incorporated herein. Consultant's annual compensation shall not exceed Ten Thousand Dollars (\$10,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City Manager or designee, prior to Consultant 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.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within thirty (30) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, 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.

2.4. Records and Audits. Records of Consultant'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.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. Unless otherwise agreed to in writing by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, pandemics, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party (each, a "Force Majeure Event"). If a party experiences a Force Majeure Event, the party shall, within five (5) days of the occurrence of the Force Majeure Event, give written notice to the other party stating the nature of the Force Majeure Event, its anticipated duration and any action being taken to avoid or minimize its effect. Any suspension of performance shall be of no greater scope and of no longer duration than is reasonably required and the party experiencing the Force Majeure Event shall use best efforts without being obligated to incur any material expenditure to remedy its inability to perform; provided, however, if the suspension of performance continues for sixty (60) days after the date of the occurrence and such failure to perform would constitute a material breach of this Agreement in the absence of such Force Majeure Event, the parties shall meet and discuss in good faith any amendments to this Agreement to permit the other party to exercise its rights under this Agreement. If the parties are not able to agree on such amendments within thirty (30) days and if suspension of performance continues, such other party may terminate this Agreement immediately by written notice to the party experiencing the Force Majeure Event, in which case neither party shall have any liability to the other except for those rights and liabilities that accrued prior to the date of termination.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of five (5) years, ending on June 30, 2026, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant 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. Consultant 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 Consultant 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. Consultant 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 Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (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 Consultant'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 Consultant'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. Consultant 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.

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 Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. 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.

6.2. 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.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. 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 CONSULTANT:

NMAI LLC
1810 Gillespie Way, Ste. 202
El Cajon, CA 92020
Tel: (530) 314-9513
Attn: Deb Torvik

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-4870
Attn: Jacqueline Reeves

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

6.5. Drug-Free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "D" and incorporated herein by reference. Consultant'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.

6.6. 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.

6.7. 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.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant'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 Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions

contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant shall secure, at its sole 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 Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant 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. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant 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, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant 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, Consultant 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.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

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 Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant 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 Consultant. City shall indemnify and hold harmless Consultant 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 Consultant. Consultant 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. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement 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 Consultant 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. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, 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. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

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

6.18. 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 any document, 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.

6.19. 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.

6.20. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.21. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant 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.

6.22. 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.

6.23. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. 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.

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

6.25. 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.


6.26. 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 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.

6.27. Counterparts and Electronic Signatures. 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. Counterpart written signatures may be transmitted by facsimile, email or other electronic means and have the same legal effect as if they were original signatures.

6.28. 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.

CONSULTANT



Signature
John McKay, Manager

[Name and Title]

Date: 6/4/2021

CITY OF COSTA MESA



Carol Moffa
Purchasing Officer

Date: June 15, 2021


ATTEST:



Brenda Green
City Clerk



APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

Date: 6/22/21

APPROVED AS TO INSURANCE:



Ruth Wang
Risk Management

Date: 6/15/21

APPROVED AS TO CONTENT:



Jacqueline Reeves
Project Manager

Date: 6/15/2021


DEPARTMENTAL APPROVAL:



Jennifer Le
Economic and Development Services
Director

Date: Jun 16/21

APPROVED AS TO PURCHASING:



Carol Molina
Finance Director

Date: June 15, 2021

EXHIBIT A
SCOPE OF SERVICES

HQS INSPECTIONS – SCOPE OF SERVICES

The scope of work may include any and all work efforts related to the Housing Quality Standards (HQS) inspections.

The Consultant shall be capable of providing trained, experienced, knowledgeable and professional staff to conduct HQS inspections as required to complete initial, annual, and re-inspections within specified time frame and Housing Quality Standards (24 CFR 982.401) policy; in addition, each property will be reviewed to ensure it meets the City's Regulatory Agreement Guidelines for safe, decent, sanitary conditions for units, walkways, driveways, alleyways and landscaping and is habitable. The inspections will consist of interior and exterior inspections ensuring properties are clean and free from chipping, cracking, deterioration and defacing marks. Properties shall be free from graffiti and defacement of any type including marks, words and/or pictures.

The Consultant shall be responsive and maintain excellent working relationships with City residents, Project Manager, government officials and City staff. The Consultant shall provide adequate staffing levels at all times and adhere to established schedules. The Consultant shall be knowledgeable of and comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, and other applicable federal, state and local laws, including but not limited to:

- The Consultant must be trained and certified for HQS inspections with ten or more years of experience.
- The Consultant must be knowledgeable and experienced with conducting the HQS Inspections for the following housing types: Apartments, Low Rise, Single Room Occupancy, New Rehabilitated Housing units for occupancy.
- The Consultant shall have the staff with program knowledge and resources to reliably conduct inspections, convey needed information to Housing and Community Development office of the City of Costa Mesa regarding space and physical standards, Life-Threatening Conditions, inspection process, notification of corrective actions, enforcement for owner compliance and enforcement of tenant compliance with HQS
- The Consultant shall furnish sufficient organization, personnel (i.e. back-up inspectors) and management staff with the necessary skills and judgment to perform all the duties and responsibilities normally associated with the inspection function.
- The Consultant shall ensure that the inspection schedule is not interrupted for any reason once scheduled.
- The Consultant shall have working knowledge of the City's ability to accept mobile inspections.

EXHIBIT B
CONSULTANT'S PROPOSAL

Housing Quality Standards Inspection Services

Nan McKay & Associates Inspections, LLC., (NMAI) is pleased to offer the Costa Mesa Housing Authority (CMHA) an agreement to perform HQS inspection services.

NMAI is a wholly owned subsidiary of Nan McKay & Associates, Inc. (NMA). Founded in 1980, NMA is a professional services firm that offers consulting, program management, financial management, training, tools, and technology solutions to public housing agencies (PHAs) and affordable housing providers throughout the nation. NMA is privately owned, incorporated in the state of California and a certified Women-Owned Business Enterprise (WBE). With our corporate headquarters in the San Diego area, we also have offices in Illinois, Florida, Kentucky, Louisiana, and Texas. The NMA team includes over 600 team members who specialize in a variety of affordable housing matters.

Company Profile

For over forty (40) years, NMA has been a leader in providing a broad range of professional services, including consulting, program management, strategic operations, inspections, training, and performance improvement solutions.

Our goal is to partner with your agency to provide the highest quality inspection services for you and your clients. We pride ourselves on our professionalism and ongoing professional development, ensuring our staff is well-versed in NMAI and individual agency expectations. Currently, our team conducts **over 270,000 inspections annually for more than fifty agencies and municipalities nationwide**. Our management team has decades of combined experience completing inspections, including both HQS and UPCS inspections.

As the leading partner for PHA inspections nationwide, NMAI successfully performs more inspections than any other firm. **We believe that inspections are about more than simply checking a box; they are ensuring that each family has a decent, safe, and sanitary place to live.** Our service areas include:





Our Experience & Qualifications

All NMA inspections staff are certified in HUD regulations and often hold additional certifications such as HCV Specialist. Our team receives real-time training on areas of specific concern to our individual clients, as well as lead-based paint, carbon monoxide, and mold abatement. We pride ourselves on our professionalism and provide ongoing training to ensure our staff is well-versed in NMAI expectations and consistently professional and courteous to all clients, staff, and other contractors.

Generally, we conduct initial, annual, follow-up and special inspections for the HCV program. If requested, we may schedule all inspections directly with the property manager or landlord (and family, as applicable) in the protocols required by HUD and the agency. We maintain detailed project documentation through forms, notices, and reports related to all inspections. Our team submits the applicable transactions once the inspections have been completed and assists with Section Eight Management Assessment Program (SEMAP) documentation, as needed. The NMAI team can use the software system specific to CMHA and provide our own mobile technology.

Throughout each of our engagements, inspections are completed in alignment with HUD regulations, as well as local policies. We provide high-quality customer service to landlords and participants and a priority on ensuring your agency is positively represented throughout the community. Our teams are professional and hardworking to guarantee that our clients receive cost-effective inspections that enhance operations. By using NMAI services, agencies can focus on family interactions while we focus on ensuring units meet all HQS requirements.

NMA's dynamic group of professionals brings an invaluable history of working collaboratively with PHAs, municipalities, and affordable housing providers across the nation. The NMAI project management team possesses more than fifty (50) years of experience with inspections procedures and will utilize this extensive experience to ensure CMHA inspections are completed correctly and in compliance with local and HUD requirements.

Key Personnel



Michael Petragallo
Role: Engagement Manager

Michael Petragallo, vice president of inspection services, is responsible for the successful completion of over one million HQS inspections. Mr. Petragallo has also developed and supervised HQS, UPCS, and QC inspections and contracts for PHAs throughout the country, while maintaining an active presence in the field. Mr. Petragallo has experience with direct technical consulting, special inspection projects to address construction and rehabilitation, and developing technical solutions for lead-based paint abatement programs.

Mr. Petragallo will be the engagement manager for this project. He will work closely with CMHA to ensure that all deliverables are met, that the work performed exceeds the expectations of CMHA, and that we are continuing to build a strong partnership. Mr. Petragallo will be available as needed for meetings, presentations, and if any issues arise in the performance of this contract.



Deb Torvik
Role: Project Manager

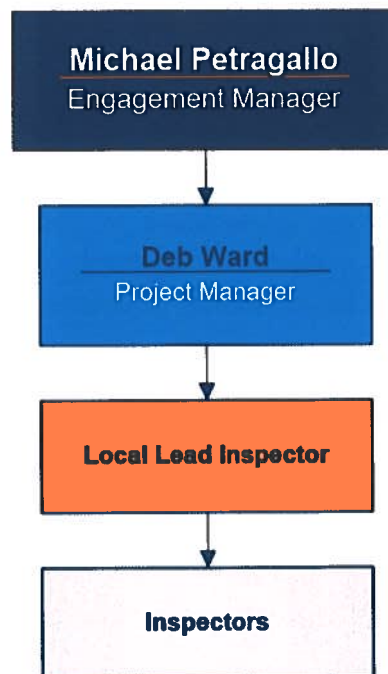
Deb Torvik, director of inspections, has more than twenty (20) years of experience providing inspection services to the affordable housing industry. Currently, Ms. Torvik oversees and manages more than 110,000 inspections on an annual basis.

Ms. Torvik will serve as the project manager for this engagement and will establish the protocols and processes necessary to achieve CMHA's inspection goals. She will oversee the project throughout the contract and will serve as the main point of contact for contractual concerns or questions. Ms. Torvik will also submit regular project status reports and monitor all project milestones and deliverables.

Inspections Team

NMAI will initially utilize our staff inspectors to conduct inspections for CMHA, but recognizes the importance of utilizing local talent for local jobs. **Whenever possible, NMAI will work to hire and train local, experienced resources to perform the proposed inspections. NMAI will conduct outreach to Section 3 applicants registered with CMHA and make every effort to hire Section 3 eligible applicants.**

The organizational chart below reflects the structure of NMAI during the initial transition period. Once the local staff is brought onboard, each inspector will report to a local lead inspector, who will in turn report to the project manager, Deb Torvik.



Our Approach & Strategy

NMAI will provide HQS inspection services for the housing portfolio of CMHA. These services include, but are not limited to:

- Conducting inspections;
- Preparing required reports;
- Appearing as needed at administrative hearings; and
- Implementing a comprehensive quality control (QC) process.

HQS inspections will be conducted in alignment with HUD’s guidelines and CMHA policies. NMAI regularly trains, consults, and performs HQS inspections across the country. Building on this experience, we will ensure that the following HQS areas are inspected consistently and accurately:

Sanitary Facilities	Food Preparation & Refuse Disposal	Space & Security	Thermal Environment
Illumination & Electricity	Structure & Materials	Interior Air Quality	Water Supply
Lead-Based Paint	Access	Site & Neighborhood Standards	Smoke Detectors

Once the contract is awarded and a notice to proceed is issued, NMAI will submit a data request for the following:

- Current administrative plan that includes CMHA noticing and inspection protocol;
- Current operating system manuals, as needed;
- Any local requirements in addition to HQS or HQS clarifications, if not included in administrative plan; and
- Point-of-contact phone numbers for CMHA program managers/contract coordinators.

NMAI will also work with CMHA to schedule a kickoff meeting to introduce staff, review roles and responsibilities, confirm expectations, and finalize the project timeline as needed.

Customer Service Strategy

To help reduce no-shows and promote partnerships with the tenants and owners, the following steps are followed throughout the inspections process:

- Owners are notified when an inspector is in route to the property.
- Inspector arrives within ten (10) minutes of the scheduled appointment time.
- Inspector waits for the tenant and/or owner for fifteen (15) minutes past the scheduled appointment time.
- Additionally, our inspectors will strive to work with owners and/or tenants to resolve questions regarding specific inspection findings and cures.

NMAI is committed to providing exceptional customer service. To that end, we conduct regular, ongoing customer service training for all our team members, including on-the-spot coaching. The project management team will watch for opportunities to improve service, and model how to utilize the AIDET customer service framework used throughout all our offices.

Our relationships, work, and decisions are guided by honesty and integrity. We're transparent in our actions and hold ourselves to the highest ethical standards. Our team focuses on service and strives to increase customer satisfaction.



The AIDET Communication Framework

mma
Nan McKay
AND ASSOCIATES, INC.

A ACKNOWLEDGE
I INTRODUCE
D DURATION
E EXPLANATION
T THANK YOU

The graphic features the mma logo in the top left corner. To its right, the text 'The AIDET Communication Framework' is displayed. Below this, a vertical stack of five red downward-pointing triangles contains the letters A, I, D, E, and T from top to bottom. To the right of each letter is its corresponding word: ACKNOWLEDGE, INTRODUCE, DURATION, EXPLANATION, and THANK YOU.



Conducting Inspections

Inspections will be completed to meet or exceed contract requirements and Section Eight Management Assessment Program (SEMAP) objectives. We will complete all required data entry on a daily basis to ensure contract compliance and maintain current and accurate information for HUD-50058 filings. NMAI will complete inspections and provide required reports within all timeframes established by the agency.

We will ensure that any owner/manager or resident requesting a paper copy of the inspection report, with signature, has this option available at the end of the inspection service. Inspectors will arrive within ten

(10) minutes of their scheduled appointment time and shall wait for tenant and/or owner for fifteen (15) minutes past the scheduled appointment if the tenant or owner is not present upon arrival.

Inspectors will provide their contact information to the owner and/or tenant and shall be available to answer questions about specific inspection findings and cures from owners, families or CMHA staff. Calls received before 2 p.m. Pacific will be returned the same day, with calls after 2 p.m. Pacific being returned no later than the next business morning. Inspectors will make telephone contact with the owner and/or client whenever an inspection cannot take place at the scheduled time. Inspectors will take all reasonable action to reduce no-show appointments to less than five (5) percent.

NMAI possesses more than thirty years of experience with HUD inspection procedures.

Initial Inspections

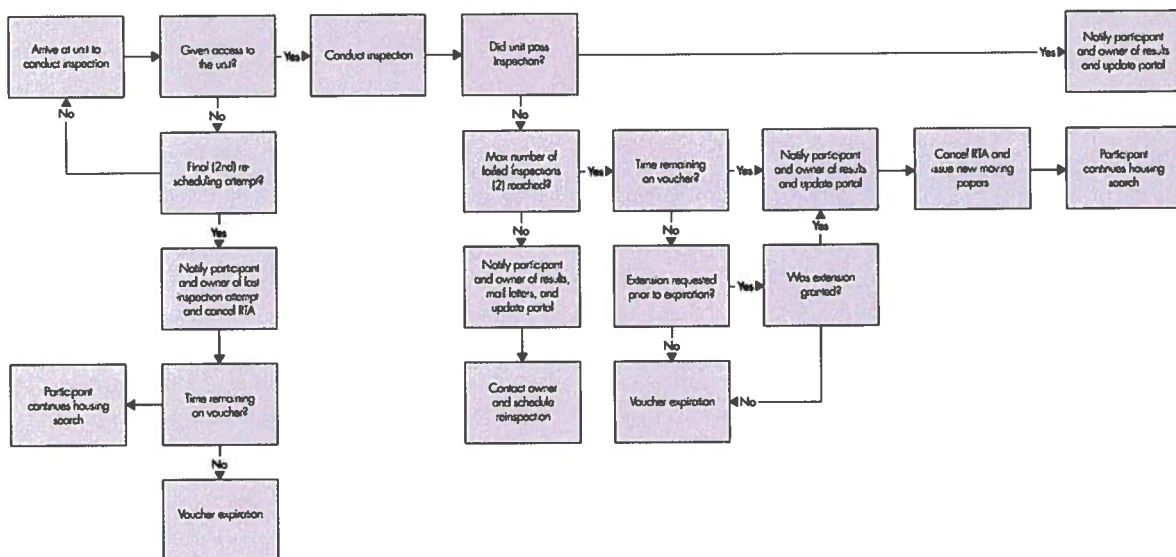
NMAI understands that in order to effectively conduct a high level of initial inspections, inspections scheduling must be accurate and timely. Additionally, in order to encourage owner retention, inspections must be conducted during the time window specified. NMAI initial inspections will be scheduled within 72 hours of the inspection request. Inspections will be scheduled on a geographic basis utilizing mapping software that will identify unit locations and schedule accordingly. Daily routes will be developed for our inspectors to minimize drive time and fuel costs. Owners and families will be provided with a 120-minute window for the inspection time and expanded hours of inspections until 7:00 p.m. as allowed in CMHA policies.

Inspections are scheduled in line with the following process flow:



- Owners are notified when an inspector is in route to the property
- Arrive within ten (10) minutes of the scheduled appointment time
- Wait for the tenant and/or owner for fifteen (15) minutes past the scheduled appointment time.

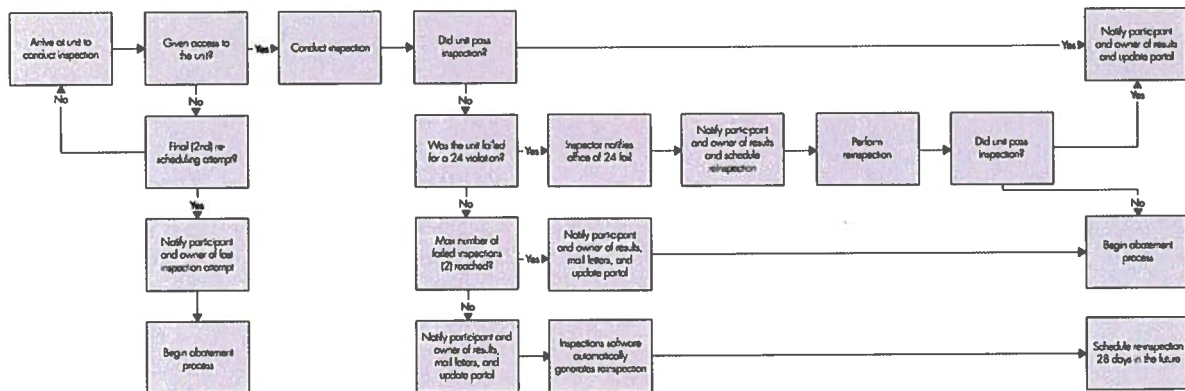
Additionally, our inspectors will strive to work with owners and/or tenants to resolve questions regarding specific inspection findings and cures:



Annual Inspections

The annual inspections process will begin with data extractions from the agency software and the Public and Indian Housing Information Center (PIC) that will assist NMAI in identifying all late, potentially late, in-progress, and future inspections that need to be completed. Priority will be placed on late (if any) and in-progress inspection services that need to be completed. NMAI will review CMHA existing annual inspections schedules and based on the last annual inspection, inspections will be scheduled to ensure completion within the required 364-day period. NMAI analyst staff will review specific inspection reports to capture the required data and generate a report of inspections to be scheduled. NMAI will mail all inspections-related notices. An electronic file will be used to establish monthly mailing notice requirements.

Annual inspections will be performed utilizing a similar process flow:



Special Inspections

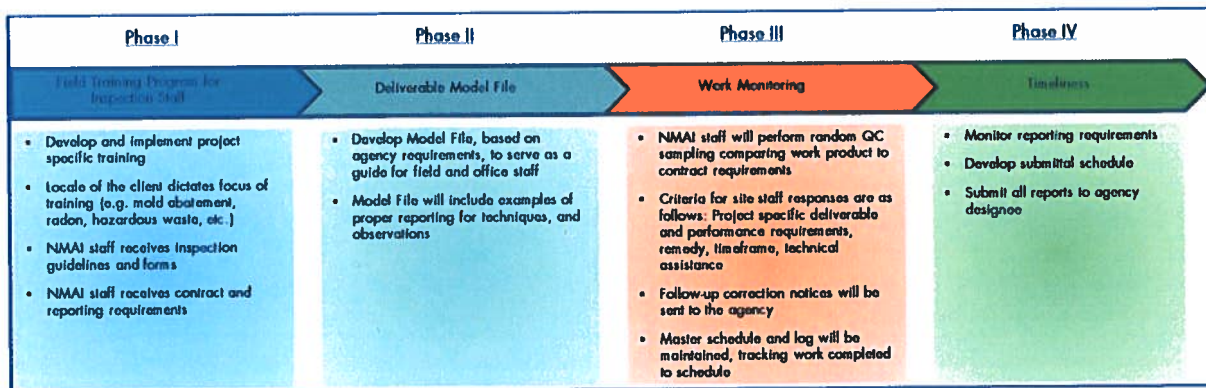
Special inspections can come from different sources, frequently and infrequently, and due to a variety of reasons, from regular home repairs to events as extreme as natural disasters. Special and complaint inspections will be conducted by NMAI with priority placed on those units where a life-threatening emergency has been reported. In the event of a natural disaster, such as a severe thunderstorm or blizzard, we will utilize our national presence to deploy NMAI inspectors from across the country, ensuring a rapid response and supporting CMHA disaster recovery plan. Enforcement actions on complaint or special inspections will be consistent with the CMHA administrative plan.

Onboarding & Training Plan

All staff will be trained by NMAI and will be certified HQS inspectors. In addition, all new staff will be trained in customer service and as needed, CMHA software and handheld devices used by our team in the field.

Project-Specific Training

Prior to assignment, all NMAI personnel will receive comprehensive training related to the CMHA project and its deliverables. Our four-phased approach is as follows:



Key staff provide technical support to the field inspectors on all elements of the contract, including providing advice or counsel as needed. This support may include clarifying work items, updates or changes to scope of services, or special needs identified by CMHA.

Forms & Reports

NMAI will utilize all required forms approved by CMHA to perform HQS inspections. Additionally, NMAI will use the reports available in CMHA software for regular reporting. Should CMHA require additional information or special reports (e.g. board presentations), NMAI will develop a template, request CMHA review and approval, and prepare the report accordingly.

Communication

NMAI will follow the communication standards established by CMHA and adapt as required by the project.

Resource Management

- The lead inspector will be responsible for the assignment and coordination of all field staff resources.
- The lead inspector will, prior to assigning personnel to a new project/inspection route detail, review their work assignment schedule for an applicable period.
- NMAI will monitor and sample the performance of field personnel. Should issues arise, NMAI will take the initiative to mitigate the issue, including re-assignment of personnel if necessary. CMHA will be informed immediately should any issues surface.
- NMAI has the flexibility to employ an experienced, knowledgeable staff on a full-time basis. This will provide CMHA the ability to request and utilize more or fewer staff from NMAI at any given time, without impacting the quality of personnel or service provided.

Quality Control/Analysis & Follow-up

Quality control (QC) inspections are an important part of ensuring staff performance and educating landlords on the program. NMAI QC inspectors will review a minimum of two (2) times the number of CMHA SEMAP-required units. The sample will include passed inspections within the last thirty (30) days and be comprised of all types of inspections, neighborhoods and inspectors. All deficiencies, pre-existing or not, will be required to be corrected by the responsible party in accordance with CMHA policies. However, the QC plan will emphasize identification of pre-existing conditions because the lack of awareness of these conditions clearly demonstrates areas that should be emphasized in the professional development of inspectors.

Field Monitoring

The lead inspector will make random visits to provide a check and balance to the reports filed by site inspectors and ensure CMHA receives exceptional service. If any errors or variances occur, the lead inspector will inform CMHA project manager of implementation of the remedy. A correction plan will be in place to address any problems with inspector performance, customer service, revised guidelines, and additional support. This information will be maintained in an inspector/project file.

Technical Support

Key staff provide technical support to the field inspectors on all elements of the contract, including providing advice or counsel as needed. This support may include clarifying work items, updates or changes to scope of services, or special needs identified by CMHA.

References

The NMAI team has successfully executed complex projects for clients throughout the country. These past experiences give us the necessary skills and background to be successful in managing the inspection services for CMHA.

Throughout each of these engagements, we implemented our proven approach through solid project management, risk management, and regulatory knowledge, supported by high levels of customer service support. Our teams have had positive impacts throughout the industry and each one of these contracts resulted in exceeding the expectations of our clients.

This section includes information on comparable contracts, including the name of the client, project title, point of contact information, and services narrative.

Lucas Metropolitan Housing Authority

Description of Work Performed & Deliverables Provided

NMAI delivers HQS inspection services for the housing portfolio of the Lucas Metropolitan Housing Authority. These services include, but are not limited to, scheduling all inspections, conducting annual, initial, re-inspection, and complaint/special inspections, and providing inspection reports and data management for the inspection function.

Contact: Karen Baird
Phone: 419-259-9400
Address: 435 Nebraska Avenue
Toledo, OH 43604
Email: kbaird@lucasmha.org
Services: HQS Services
Term: April 2013 – Present
Value: \$225,000/year

County of San Diego, Department of Housing & Community Development

Description of Work Performed & Deliverables Provided

NMAI delivers HQS inspection services for the County of San Diego, Department of Housing and Community Development (HCD). These services include, but are not limited to, scheduling all inspections, conducting annual, initial, re-inspection, and complaint/special inspections, and providing inspection reports and data management for the inspection function. NMAI also provides UPCS inspection services for HCD on an as needed basis.

Contact: Donna Varner
Phone: 858-694-4883
Address: 3989 Ruffin Road
San Diego, CA 92123
Email: donna.varner@sdcounty.ca.gov
Services: HQS & UPCS Services
Term: February 2015 – Present
Value: \$482,182



Housing Authority of the City of Miami Beach

Description of Work Performed & Deliverables Provided

NMAI delivers HQS inspection services for the Housing Authority of the City of Miami Beach. These services include, but are not limited to, scheduling all inspections, conducting annual, initial, re-inspection, and complaint/special inspections, and providing inspection reports and data management for the inspection function.

Contact: Vashtey Leon
Phone: 305-532-6401, ext. 3029
Address: 200 Alton Road
Miami Beach, FL 33139
Email: vleon@mbha.org
Services: HQS Services
Term: October 2013 – Present
Value ~\$120,000/year

EXHIBIT C
FEE SCHEDULE



Investment

Presented below are NMAI's standard pricing options. Please note that additional fees may be incurred if NMAI is unable to conduct inspections due to circumstances outside of our control, such as weather. Additional fees may also be associated with supplementary services outside of the proposed scope of work.

Pricing does not include administrative or scheduling services and is for inspections services only.

Inspection Type	Cost
Initial Inspection	\$26.00
Annual Inspection	\$26.00
Re-Inspection	\$22.00
No Show/Missed	\$12.00

EXHIBIT D
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:

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

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;

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

- 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.