

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
GVP VENTURES INC. DBA BOB MURRAY & ASSOCIATES**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of August 24, 2021 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and GVP VENTURES INC., a California corporation DBA BOB MURRAY & ASSOCIATES ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide recruitment 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 Exhibit "A" 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; and

E. WHEREAS, City and Consultant intend and desire that this Agreement be effective retroactive to the Effective Date.

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 Consultant's Proposal, attached hereto as Exhibit "A" and 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 A. Consultant's total compensation shall not exceed Twenty-Five Thousand Dollars (\$25,000.00).

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 monthly 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 forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the date of performance. 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 be effective retroactive to the Effective Date and continue for a period of three (3) years, ending on August 23, 2024, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. This Agreement may be extended by two (2) additional one (1) year periods upon mutual written agreement of both 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:

Bob Murray & Associates
1544 Eureka Road, Ste. 280
Roseville, CA 95661
Tel: (916) 784-9080
Attn: Valerie Gaeta Phillips

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5169
Attn: Kasama Lee

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 "B" 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. 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.

6.28. 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.

STEP 10 ASSIST IN NEGOTIATIONS

We recognize the critical importance of successful negotiations and can serve as your representative during this process. Ms. Gaeta Phillips knows what other organizations have done to put deals together with great candidates and what the current market is like for Assistant City Manager positions in organizations like the City of Costa Mesa's. He will be available to advise you regarding current approaches to difficult issues, such as housing and relocation. We will represent your interests and advise the chosen candidate and you regarding salary, benefits, and employment agreements, with the goal of putting together a deal that results in the appointment of your chosen candidate. With our proven experience and vested interest in a positive outcome, we can turn a very difficult aspect of the recruitment into one that is straightforward and agreeable for all parties involved.

COMPLETE ADMINISTRATIVE ASSISTANCE

We receive many unsolicited testimonials each year from clients and candidates alike noting our prompt, considerate, accurate, and professional service during the search process. Throughout the recruitment, in time intervals that suit the City of Costa Mesa, we will provide you with updates on the status of the search and attend to all administrative details on your behalf.

Candidates receive immediate acknowledgement of their applications, as well as personal phone calls and/or emails (as appropriate) advising them of their status at each critical point in the recruitment. Candidates who receive preliminary or final interviews and are not chosen to move forward in the interview process will receive personal calls from Ms. Gaeta Phillips on behalf of the City of Costa Mesa.

It is our internal company standard that all inquiries from clients and candidates receive a response within the same business day whenever possible, and certainly within 24 hours if the inquiry is received during the work week. Ms. Gaeta Phillips will be available to the City of Costa Mesa by office phone, cell phone, and email at any time to ensure a smooth and stress-free recruitment process.

COSTS AND GUARANTEE

PROFESSIONAL FEE AND EXPENSES

The fixed, flat professional services fee for conducting the Assistant City Manager recruitment on behalf of the City of Costa Mesa is \$18,000. Services provided for in this fee consist of all steps outlined in this proposal, including two (2) meetings on site. The professional fee does not limit the amount of time invested by Bob Murray & Associates in promoting a successful outcome for this project. In fact, our mission for this project is to ensure we assist in identifying the right candidate for the City of Costa Mesa. Therefore, Ms. Gaeta Phillips will contact the City at the first anniversary of the placement to confirm an effective transition has occurred.

The City of Costa Mesa will also be responsible for reimbursing expenses Bob Murray & Associates incurs on your behalf. We estimate expenses for this project not to exceed \$7,000. Reimbursable expenses include (but are not limited to) such items as the cost of recruiter travel; clerical support; brochure development; placement of ads; credit and civil background checks; education verification; and public records searches. Postage, printing, photocopying, and telephone charges are allocated costs and included in the expense estimate. *In no instance will expenses exceed this estimate without prior approval from the City of Costa Mesa.*

Expense reimbursement for candidate travel related to on-site interviews will be the responsibility of the City of Costa Mesa.

Professional Fees and Reimbursable Expenses	
Professional Services (Fixed Flat Fee)	\$18,000
Reimbursable Expenses	
<i>Example costs and approximate amounts include:</i>	
Brochure Design and Printing (\$1,275)	
Advertising (\$3,000)	\$7,000
Background Checks – 3 candidates (\$550)	
Consultant Travel (\$1,600)	
Other expenses – supplies, shipping, clerical (\$575)	
Not-to-Exceed Total	\$25,000

Optional Services

- Community/Staff Input Forum: \$1,500/day, plus travel expenses
- Online survey with analysis of results: \$250
- Additional on-site meeting days: \$1,500/day, plus travel expenses
- Additional background checks: \$250/candidate
- Additional reference checks: \$500/candidate
- Other services: \$250/hour or \$1,500/day

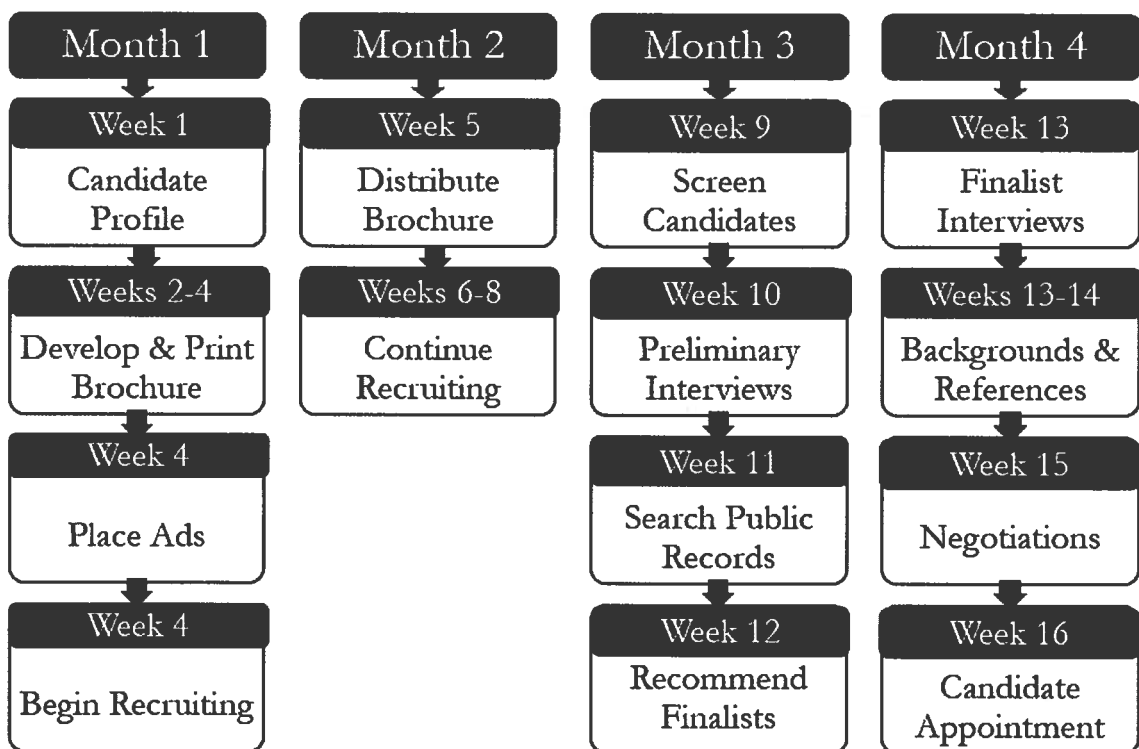
GUARANTEE

Should a candidate recommended by our firm position resign or be terminated within the first 12 months of employment, we will provide the City of Costa Mesa with professional services to secure a replacement. Services will be provided at no cost, aside from expenses incurred on the City of Costa Mesa's behalf during the new search. We are confident in our ability to recruit outstanding candidates and do not expect the City to find it necessary to exercise this provision of our proposal.

RECRUITMENT SCHEDULE

We are prepared to start work on this assignment upon receipt of a signed professional services agreement or other written, authorized notification. A full search can be completed in 13-16 weeks from the date of initial meetings with our client.

The final recruitment schedule will be determined in collaboration with City of Costa Mesa. A typical timeline of tasks and events is included here for reference.



FIRM PROFILE

OUR STAFF

Bob Murray & Associates is a small firm focusing exclusively on executive search services. We have a team of ten (10):

- Bob Murray, *Founder*
- Valerie Gaeta Phillips, *President*
- Gary Phillips, *Executive Vice President*
- Regan Williams, *Vice President*
- Joel Bryden, *Vice President*
- Yasmin Beers, *Senior Executive Recruiter*
- Carmen Valdez, *Senior Executive Recruiter*
- Amber Smith, *Principal Recruitment Coordinator*
- Sky Baclig, *Senior Recruitment Coordinator*
- Gini Herndon, *Contracts Administrator/Bookkeeper*

BOB MURRAY, FOUNDER

Mr. Murray—known simply as “Bob” to his clients and candidates throughout the western U.S.—brings over 40 years’ experience as a recruiter and is recognized as one of the top local government recruiters in the nation. He conducted hundreds of searches for cities, counties, and special districts and was called on to conduct searches for some of the largest, most complex organizations in the country—and some of the smallest. Bob conducted searches for chief executives, department heads, professional and technical positions, taking the lead on many of the firm’s most difficult assignments with great success. His clients retained him again and again, given the quality of his work and success in finding candidates for difficult to fill positions.

As our Founder, Bob currently takes on few searches personally but continues to be an active presence at Bob Murray & Associates, providing valued insight and experience to our team members regarding all aspects of the recruitment process.

Mr. Murray received his Bachelor of Science Degree in Criminology from the University of California at Berkeley with graduate studies in Public Administration at California State University at Hayward.

VALERIE GAETA PHILLIPS, PRESIDENT AND RECRUITER

Ms. Gaeta Phillips has over 18 years of recruiting experience, including more than a decade of recent experience in executive search for public, private, and startup companies nationwide. Since joining Bob Murray & Associates, Valerie has completed over 160 searches in a diverse range of fields, including city and general management, planning, finance, human resources, transportation, communication and public relations, community and economic development, information technology, parks and recreation, and operations. She has recruited at all levels of municipal and non-profit organizations, from technicians and engineers to Executive Directors and Chief Executive Officers.

Valerie is valued for her passion for finding and retaining the most outstanding candidates for even the most difficult or untraditional assignments and for her commitment to her clients' success; she is also active in a variety of industry organizations and in diversity-focused associations. Valerie is called upon often to serve as an expert speaker on topics such as managing one's online reputation, diversity issues in municipal and non-profit leadership, and how to identify a good "fit" for organizational culture.

Ms. Gaeta Phillips, along with Executive Vice President Gary Phillips, has a passion for helping people, evidenced by fundraising, sponsorship, and involvement in raising awareness for organizations such as Autism Speaks, the UC Davis M.I.N.D. Institute, and the Northern California Special Olympics.

GARY PHILLIPS, EXECUTIVE VICE PRESIDENT AND RECRUITER

Since joining Bob Murray & Associates, Mr. Phillips has completed over 125 searches for executives and professionals in a wide variety of fields including animal services, city and general management, planning, legal counsel, cyber security, and human resources. Gary's clients have ranged from municipal government to non-profit and private sector organizations, and he has sourced outstanding candidates for positions from the level of division managers up to City Managers, Executive Directors, and General Managers.

Gary started his career with a New York-based Fortune 100 company and quickly became a Senior Manager, building and running a large customer service organization that eventually expanded to 13 countries in Europe. He proceeded to hold senior leadership positions in several Fortune 500 companies, with noted successes such as building an organization from two to 250 employees worldwide and growing a company from 800 to 1200 employees.

As part of an executive acquisition and recruiting team, Gary helped build a start-up enterprise software company in San Francisco, recruiting top-notch talent and building a world-class organization. He has maintained customer relationships in the public sector and the private sector, including medical and financial institutions. He prides himself on finding key talent and offering the best customer service to his clients.

Mr. Phillips, along with Ms. Gaeta-Phillips, is involved in his community as a soccer coach, as an organizer of fundraisers for Autism Speaks and the UC Davis M.I.N.D. Institute, and as a sponsor of the Northern California Special Olympics. Mr. Phillips received his Associate of Science degree and completed additional coursework at Rochester Institute of Technology, NY.

REGAN WILLIAMS, SENIOR VICE PRESIDENT AND RECRUITER

Mr. Williams brings 30 years of local government experience to Bob Murray & Associates and has over 17 years of experience in executive recruitments with our firm. In his time with Bob Murray & Associates, Regan has conducted over 275 executive searches ranging from managers and department heads to City Managers, Executive Directors, and General Managers. If Regan were to have a recruiting specialty, it would be public safety positions: he has personally conducted over 60 Police Chief and 20 Fire Chief recruitments.

Prior to joining Bob Murray & Associates, Regan served as Director of Public Safety with the City of Sunnyvale, CA. He was involved in the development of some of Sunnyvale's most innovative public safety programs and has a national reputation for excellence in law enforcement, as well as in law enforcement executive recruiting. Regan's clients find his prompt and personal attention, insight, and expertise in recruitment and selection an asset. He is often called upon to recruit for difficult-to-fill law enforcement positions, such as the position of Police Chief or City Manager in challenging political environments.

Mr. Williams received his Bachelor of Science Degree in Administration of Justice from San Jose State University. He is also a graduate of the FBI National Academy.

JOEL BRYDEN, VICE PRESIDENT AND RECRUITER

Mr. Bryden has over 30 years of local government experience that he brings to the firm, having retired as Chief of Police in Walnut Creek, CA prior to joining Bob Murray & Associates in 2013. Throughout his career, Joel has been involved in public sector consulting, with vast experience in hiring and promotional processes, as well as interviewing candidates for advancement in all aspects of local government.

Joel has a solid reputation as a leader in the public sector and his ability to find and evaluate outstanding applicants for our clients is invaluable in the search process. Since joining Bob Murray & Associates, Joel has conducted over 100 recruitments in a broad range of sectors including police, fire, building, planning, city management, and general management. He is often called upon to recruit specialized or difficult-to-fill positions, such as Independent Police Auditor.

Mr. Bryden is a graduate of the FBI National Academy and obtained his Bachelor of Arts Degree in Communication from San Diego State University. He is currently based in Walnut Creek, CA.

YASMIN BEERS, SENIOR EXECUTIVE RECRUITER

Yasmin Beers brings over 33 years of municipal government experience to Bob Murray and Associates. Yasmin retired as the City Manager for Glendale with a population of over 200,000. She served as Chief Executive Officer overseeing close to 2,000 employees serving in Police, Fire, Public Works, Parks, Community Development, Library Arts & Culture, Innovation Performance & Audit, and Water & Power to name a few.

Yasmin's three decades of experience in public service brings extensive background in public sector finance, human resources management, contract negotiations, strategic planning & organizational leadership, policy development, emergency response & planning, team building and performance improvement. Throughout her career, Yasmin has had a great deal of experience in recruiting, selecting and hiring employees for executive and management level positions with a focus on the organizational needs and culture.

Yasmin currently serves on the Glendale Adventist Medical Center's Civic Advisory Board and the Advisory Board for Village Christian School. Yasmin is a past member of Soroptimist International of Glendale where she served as President in 1999/2000. She is a past board member of Glendale Healthy Kids, Salvation Army and the American Red Cross. In 2011 the Glendale Chamber of Commerce recognized Yasmin as Woman of the Year; in 2013 she was

the recipient of The Armenian American Woman of Excellence Award; in 2014 Yasmin was recognized by the Glendale Educational Foundation for her distinguished service and philanthropic efforts; in 2015, YWCA awarded Yasmin with the Heart & Excellence Award; in 2017, she was recognized by Business Life Magazine as a Women Achiever; and in 2018 the California State Senate recognized Yasmin as one of the Woman of the Year, each a tribute to her core values that represent her civic responsibilities, volunteerism and community service.

Yasmin has a Bachelor of Arts degree in Political Science from California State University, Northridge and a Master's degree in Organizational Leadership from Woodbury University.

CARMEN VALDEZ, SENIOR EXECUTIVE RECRUITER

Carmen Valdez provides executive recruitment and human resource services to municipal government agencies and non-profits. She has more than 25 years' experience in executive search, general human resources, classification and compensation, testing, policy development, performance management, team building, organizational development, discipline, and other employee relations activities.

Carmen has most recently been consulting with Municipal Resource Group, prior to which she spent over 30 years with the City of Milpitas, a Silicon Valley city of 70,000 residents. In this capacity, she was responsible for collective bargaining, PEPRA and Affordable Care Act implementation, modernizing Human Resource services to improve efficiencies and reduce costs, revamping the Workers Compensation service delivery and completing a City-wide strategic plan. Carmen also spent almost 2 years as the Director of Recreation Services.

In addition to her significant experience in the public sector, Carmen earned a Bachelor of Arts degree in Business from University of Phoenix. She is also a member of Local Government Hispanic Network and League of Women in Government. She is an avid runner and enjoys giving back to her community.

AMBER SMITH, PRINCIPAL RECRUITMENT COORDINATOR

As Principal Recruitment Coordinator with Bob Murray & Associates, Ms. Smith acts as a liaison between clients and candidates from beginning to end of each recruitment process. Under the direction of each client's assigned Recruiter, Amber is responsible for the development and distribution of position recruitment and advertising materials, client research, reference and background checks, responding to requests for proposals, and providing a broad range of support services for the recruiting team. She also provides leadership for our in-house staff and is an invaluable resource.

Amber brings over a decade of client-oriented customer service, administrative, and management experience to Bob Murray & Associates. Since joining our team in 2013, she has shown a commitment to working as a partner with clients and candidates to provide a quality service and experience.

Ms. Smith received her Bachelor of Arts degree in Business Administration from La Sierra University, Riverside, California.

SKY BACLIG, SENIOR RECRUITMENT COORDINATOR

A Ms. Baclig is a Senior Recruitment Coordinator with Bob Murray & Associates and is an essential part of our hiring experience. She partners closely with the executive recruiters to support hiring initiatives and is responsible for facilitating the movement of candidates through the recruitment process.

Her responsibilities entail everything from creating marketing materials, posting available positions to job boards, candidate research, interview scheduling, conducting background checks, and ensuring the overall hiring process runs smoothly.

Sky graduated from California State University Sacramento with her bachelor's degree in Liberal Studies. She has over a decade of client service experience and 5 years in Human Resources. She possesses thorough knowledge of Human Resources best practices and relies on her service-oriented attitude to support management/clients and team.

She has a passion for helping people and connecting both personally and professionally. Outside of the workplace, Sky likes to spend time with her family, her dog, Oliver, and travel the world.

GINI HERNDON, CONTRACTS ADMINISTRATOR/BOOKKEEPER

Ms. Gini Herndon is the Contracts Administrator/Bookkeeper at Bob Murray & Associates. Ms. Herndon is the first point of contact at Bob Murray & Associates and has an extensive administrative background in business law.

Ms. Herndon is known for her collaborative approach as she works closely with our internal team and clients to ensure a successful search. As a first point of contact, Ms. Herndon is highly professional and maintains a high level of confidentiality and sensitivity.

CORPORATION

Bob Murray & Associates was founded in May 2000 and operated under the corporation name MBN Services, Inc. until June 2014; our new corporation name is GVP Ventures, Inc., incorporated in California in 2014. Contact information for the corporation and the firm is as follows:

GVP Ventures, Inc. OR Bob Murray & Associates
1544 Eureka Road, Ste. 280
Roseville, CA 95661
(916) 784-9080
apply@bobmurrayassoc.com

Our corporation and firm are financially sound (and have been so since 2000), with documentation from our accountant available to your organization prior to final execution of a professional service agreement. We have never been involved in any litigation, aside from our personnel serving as expert witnesses when called to do so.

PROFESSIONAL ASSOCIATIONS

Our firm, represented by either our President or our Executive Vice President, are involved in the following organizations to remain engaged with current and future issues relevant to the work we conduct on behalf of clients like City of Costa Mesa:

- California Special Districts Association – *Member*
- California City Management Foundation (CCMF) – *Member*
- International City/County Management Association (ICMA) – *Member*
- League of California Cities – *League Partner*
- League of Women in Government – *Sponsor/Member*
- Municipal Management Association of Northern California (MMANC) – *Sponsor/Member*
- Municipal Management Association of Southern California (MMASC) – *Sponsor/Member*
- National Forum for Black Public Administrators (NFBPA) – *Committee member for Marketing and Branding*

Members of our leadership team not only attend events sponsored by these associations but are also frequently called upon to serve as panel members and to provide specialized lectures regarding industry-specific issues.

Recent and upcoming speaking engagements and trainings provided by our staff include:

- “Role of the Chief” class, presented by Joel Bryden on behalf of the California Police Chiefs Association
- Organization of Latino Affairs invited speaker, Valerie Phillips for Hispanic Heritage Month; and
- “The Next Step on Your Career Ladder: A Rung Up or a Missed Step? What City Managers are Seeking to Create a Dream Team,” Bob Murray & Associates is a leading participant on the MMANC 2019 Conference Panel

REFERENCES

Clients and candidates are the best testament to our ability to conduct quality searches. Clients for whom Bob Murray & Associates has recently conducted similar searches are listed below:

CLIENT: City of Fairfield, CA
POSITION: Assistant City Manager
REFERENCE: Mr. Stefan Chatwin, City Manager
(208) 771-4350

CLIENT: City of Healdsburg, CA
POSITION: City Manager
REFERENCE: Mr. David Hagele, Council Member
(707) 578-7800

CLIENT: City of Jurupa Valley, CA
POSITION: City Manager
REFERENCE: Mr. Rod Butler, City Manager or
Ms. Pat Grob, Sr. Human Resources Analyst
(915) 332-6464

We appreciate the City of Costa Mesa's consideration of our proposal and look forward to working with you.



EXHIBIT B
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.