

**AGREEMENT FOR PROJECT SERVICES  
BETWEEN THE CITY OF REDONDO BEACH  
AND EXCELSIOR ELEVATOR CORPORATION**

THIS AGREEMENT FOR PROJECT SERVICES (this "Agreement") is made between the City of Redondo Beach, a Chartered Municipal Corporation ("City") and Excelsior, a California corporation ("Contractor" or "Consultant").

The parties hereby agree as follows:

- A. Description of Project or Scope of Services. The project description or scope of services to be provided by Contractor, and any corresponding responsibilities of City or services required to be performed by City are set forth in Exhibit "A".
- B. Term and Time of Completion. Contractor shall commence and complete the project or services described in Exhibit "A" in accordance with the schedule set forth in Exhibit "B".
- C. Compensation. City agrees to pay Contractor for work performed in accordance with Exhibit "C".

\* \* \* \* \*

**GENERAL PROVISIONS**

- 1. Independent Contractor. Contractor acknowledges, represents and warrants that Contractor is not a regular or temporary employee, officer, agent, joint venturer or partner of the City, but rather an independent contractor. This Agreement shall not be construed as a contract of employment. Contractor shall have no rights to any benefits which accrue to City employees unless otherwise expressly provided in this Agreement. Due to the independent contractor relationship created by this Agreement, the City shall not withhold state or federal income taxes, the reporting of which shall be Contractor's sole responsibility.
- 2. Brokers. Contractor acknowledges, represents and warrants that Contractor has not hired, retained or agreed to pay any entity or person any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 3. City Property. All plans, drawings, reports, calculations, data, specifications, videos, graphics or other materials prepared for or obtained pursuant to this Agreement shall upon request be delivered to the City within a reasonable time, and the rights thereto shall be deemed assigned to the City. If applicable, Contractor shall prepare check prints upon request. Said plans, drawings, reports, calculations, data, specifications, videos, graphics or other materials

shall be specific for the project herein and shall not be used by the City for any other project without Contractor's consent. Notwithstanding the foregoing, Contractor shall not be obligated to assign any proprietary software or data developed by or at the direction of Contractor for Contractor's own use; provided, however, that Contractor shall, pursuant to Paragraph 14 below, indemnify, defend and hold the City harmless from and against any discovery or Public Records Act request seeking the disclosure of any such proprietary software or data.

4. Inspection. If the services set forth in Exhibit "A" shall be performed on City or other public property, the City shall have the right to inspect such work without notice. If such services shall not be performed on City or other public property, the City shall have the right to inspect such work upon reasonable notice. Inspections by the City shall not relieve or minimize the responsibility of Contractor to conduct any inspections Contractor has agreed to perform pursuant to the terms of this Agreement. Contractor shall be solely liable for said inspections performed by Contractor. Contractor shall certify in writing to the City as to the completeness and accuracy of each inspection required to be conducted by Contractor hereunder.
5. Services. The project or services set forth in Exhibit "A" shall be performed to the full satisfaction and approval of the City. In the event that the project or services set forth in Exhibit "A" are itemized by price in Exhibit "C", the City in its sole discretion may, upon notice to Contractor, delete certain items or services set forth in Exhibit "A", in which case there shall be a corresponding reduction in the amount of compensation paid to Contractor. City shall furnish Contractor, to the extent available, with any City standards, details, specifications and regulations applicable to the Project and necessary for the performance of Contractor's services hereunder. Notwithstanding the foregoing, any and all additional data necessary for design shall be the responsibility of Contractor.
6. Records. Contractor, including any of its subcontractors, shall maintain full and complete documents and records, including accounting records, employee time sheets, work papers, and correspondence pertaining to the project or services set forth in Exhibit "A". Contractor, including any of its subcontractors, shall make such documents and records available for City review or audit upon request and reasonable notice, and shall keep such documents and records, for at least four (4) years after Contractor's completion of performance of this Agreement. Copies of all pertinent reports and correspondence shall be furnished to the City for its files.
7. Changes and Extra Work. All changes and/or extra work under this Agreement shall be performed and paid for in accordance with the following:

Only the City Council, City Manager, or the Department Head responsible for the administration of, or supervision of the scope of work under, this Agreement may

authorize extra and/or changed work. Contractor expressly recognizes that other City personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of Contractor to secure the written authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in contract price due to such unauthorized work and Contractor thereafter shall be entitled to no compensation whatsoever for performance of such work.

If Contractor is of the opinion that any work which Contractor has been directed to perform is beyond the scope of this Agreement and constitutes extra work, Contractor shall promptly notify the City of the fact. The City shall make a determination as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work. In the event that the City determines that such work does constitute extra work, City shall provide extra compensation to Contractor on a fair and equitable basis. A written amendment providing for such compensation for extra work shall be executed by Contractor and the City.

8. Additional Assistance. If this Agreement requires Contractor to prepare plans and specifications, Contractor shall provide assistance as necessary to resolve any questions regarding such plans and specifications that may arise during the period of advertising for bids, and Contractor shall issue any necessary addenda to the plans and specifications as requested. In the event Contractor is of the opinion that City's requests for addenda and assistance is outside the scope of normal services, the parties shall proceed in accordance with the changes and extra work provisions of this Agreement.
9. Professional Ability. Contractor acknowledges, represents and warrants that Contractor is skilled and able to competently provide the services hereunder, and possesses all professional licenses, certifications, and approvals necessary to engage in its occupation. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor shall perform in accordance with generally accepted professional practices and standards of Contractor's profession.
10. Business License. Contractor shall obtain a Redondo Beach Business License before performing any services required under this Agreement. The failure to so obtain such license shall be a material breach of this Agreement and grounds for immediate termination by City; provided, however, that City may waive the business license requirement in writing under unusual circumstances without necessitating any modification of this Agreement to reflect such waiver.
11. Termination Without Default. Notwithstanding any provision herein to the contrary, the City may, in its sole and absolute discretion and without cause, terminate this Agreement at any time prior to completion by Contractor of the project or services hereunder, immediately upon written notice to Contractor. In the event of any such termination, Contractor shall be compensated for: (1) all

authorized work satisfactorily performed prior to the effective date of termination; and (2) necessary materials or services of others ordered by Contractor for this Agreement prior to Contractor's receipt of notice of termination, irrespective of whether such materials or services of others have actually been delivered, and further provided that Contractor is not able to cancel such orders. Compensation for Contractor in such event shall be determined by the City in accordance with the percentage of the project or services completed by Contractor; and all of Contractor's finished or unfinished work product through the time of the City's last payment shall be transferred and assigned to the City. In conjunction with any termination of this Agreement, the City may, at its own expense, make copies or extract information from any notes, sketches, computations, drawings, and specifications or other data, whether complete or not.

12. Termination in the Event of Default. Should Contractor fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, the City may immediately terminate this Agreement by giving written notice of such termination, stating the reasons for such termination. Contractor shall be compensated as provided immediately above, provided, however, there shall be deducted from such amount the amount of damages, if any, sustained by the City by virtue of Contractor's breach of this Agreement.
13. Conflict of Interest. Contractor acknowledges, represents and warrants that Contractor shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Agreement. Contractor further acknowledges, represents and warrants that Contractor has no business relationship or arrangement of any kind with any City official or employee with respect to this Agreement. Contractor acknowledges that in the event that Contractor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Agreement, all consideration received under this Agreement shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Agreement for one (1) year.
14. Indemnity. To the maximum extent permitted by law, Contractor hereby agrees, at its sole cost and expense, to defend protect, indemnify, and hold harmless the City, its elected and appointed officials, officers, employees, volunteers, attorneys, and agents (collectively "Indemnitees") from and against any and all claims, including, without limitation, claims for bodily injury, death or damage to property, demands, charges, obligations, damages, causes of action, proceedings, suits, losses, stop payment notices, judgments, fines, liens, penalties, liabilities, costs and expenses of every kind and nature whatsoever, in any manner arising out of, incident to, related to, in connection with or arising from any act, failure to act, error or omission of Contractor's performance or work hereunder (including any of its officers, agents, employees, Subcontractors) or its failure to comply with any of its obligations contained in the Agreement, or its

failure to comply with any current or prospective law, except for such loss or damage which was caused by the sole negligence or willful misconduct of the City. Notwithstanding the foregoing, nothing in this Section 14 shall be construed to encompass Indemnitees' active negligence to the limited extent that this Agreement is subject to Civil Code Section 2782(b). Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Contractor or Indemnitees. This indemnification obligation shall survive this Agreement and shall not be limited by any term of any insurance policy required under this Agreement.

- a. Nonwaiver of Rights. Indemnitees do not and shall not waive any rights that they may possess against Contractor because the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement.
  - b. Waiver of Right of Subrogation. Contractor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees.
15. Insurance. Contractor shall comply with the requirements set forth in Exhibit "D." Insurance requirements that are waived by the City's Risk Manager do not require amendments or revisions to this Agreement.
16. Non-Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Agreement.
17. Compliance with Laws. Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Agreement, including without limitation all environmental laws, employment laws, and non-discrimination laws.
  - a. Acknowledgement. Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one calendar week. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of 8 hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay. For every subcontractor who will perform work on the project, Contractor shall be

responsible for such subcontractor's compliance with Labor Code Sections 1810, 1813 and 1815, and Contractor shall include in the written contract between it and each subcontractor copies of Labor Code Sections 1810, 1813 and 1815 and a requirement that each subcontractor shall comply with these aforementioned sections. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor comply with Labor Code Sections 1810, 1813 and 1815, Contractor shall diligently take corrective action to halt or rectify the failure.

- b. Prevailing Wages. City and Contractor acknowledge that this project is a public work to which prevailing wages apply. Contractor shall comply with the Agreement to Comply with California Labor Law Requirements set forth in Exhibit "E", which is attached hereto and incorporated by reference.
18. Limitations upon Subcontracting and Assignment. Contractor acknowledges that the services which Contractor shall provide under this Agreement are unique, personal services which, except as otherwise provided herein, Contractor shall not assign or sublet to any other party without the prior written approval of City, which approval may be withheld in the City's sole and absolute discretion. In the event that the City, in writing, approves any assignment or subletting of this Agreement or the retention of subcontractors by Contractor, Contractor shall provide to the City upon request copies of each and every subcontract prior to the execution thereof by Contractor and subcontractor. Any attempt by Contractor to assign any or all of its rights under this Agreement without first obtaining the City's prior written consent shall constitute a material default under this Agreement.

The sale, assignment, transfer or other disposition, on a cumulative basis, of twenty-five percent (25%) or more of the ownership interest in Contractor or twenty-five percent (25%) or more the voting control of Contractor (whether Contractor is a corporation, limited liability company, partnership, joint venture or otherwise) shall constitute an assignment for purposes of this Agreement. Further, the involvement of Contractor or its assets in any transaction or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Agreement or Contractor's assets occurs, which reduces Contractor's assets or net worth by twenty-five percent (25%) or more shall also constitute an assignment for purposes of this Agreement.

19. Subcontractors. Contractor shall provide properly skilled professional and technical personnel to perform any approved subcontracting duties. Contractor shall not engage the services of any person or persons now employed by the City without the prior written approval of City, which approval may be withheld in the City's sole and absolute discretion.

20. Integration. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement; provided, however, that correspondence or documents exchanged between Contractor and City may be used to assist in the interpretation of the exhibits to this Agreement.
21. Amendment. This Agreement may be amended or modified only by a subsequent written amendment executed by both parties.
22. Conflicting Provisions. In the event of a conflict between the terms and conditions of this Agreement and those of any exhibit or attachment hereto, this Agreement proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by the City shall prevail over those prepared by Contractor.
23. Non-Exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Contractor hereunder shall be non-exclusive, and City reserves the right to employ other contractors in connection with the project.
24. Exhibits. All exhibits hereto are made a part hereof and incorporated herein by reference; provided, however, that any language in Exhibit "A" which does not pertain to the project description, proposal, or scope of services (as applicable) to be provided by Contractor, or any corresponding responsibilities of City, shall be deemed extraneous to, and not a part of, this Agreement.
25. Time of Essence. Time is of the essence of this Agreement.
26. Confidentiality. To the extent permissible under law, Contractor shall keep confidential its obligations hereunder and the information acquired during the performance of the project or services hereunder.
27. Third Parties. Nothing herein shall be interpreted as creating any rights or benefits in any third parties. For purposes hereof, transferees or assignees as permitted under this Agreement shall not be considered "third parties."
28. Governing Law and Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Venue for any litigation or other action arising hereunder shall reside exclusively in the Superior Court of the County of Los Angeles, Southwest Judicial District.
29. Attorneys' Fees. In the event either party to this Agreement brings any action to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees (including expert witness fees) and costs. This provision shall survive the termination of this Agreement.

30. Claims. Any claim by Contractor against City hereunder shall be subject to Government Code §§ 800 *et seq.* The claims presentation provisions of said Act are hereby modified such that the presentation of all claims hereunder to the City shall be waived if not made within six (6) months after accrual of the cause of action.
31. Interpretation. Contractor acknowledges that it has had ample opportunity to seek legal advice with respect to the negotiation of this Agreement. This Agreement shall be interpreted as if drafted by both parties.
32. Warranty. In the event that any product shall be provided to the City as part of this Agreement, Contractor warrants as follows: Contractor possesses good title to the product and the right to transfer the product to City; the product shall be delivered to the City free from any security interest or other lien; the product meets all specifications contained herein; the product shall be free from material defects in materials and workmanship under normal use for a period of one (1) year from the date of delivery; and the product shall be fit for its intended purpose(s). Notwithstanding the foregoing, consumable and maintenance items (such as light bulbs and batteries) shall be warranted for a period of thirty (30) days from the date of delivery. All repairs during the warranty period shall be promptly performed by Contractor, at Contractor's expense, including shipping. Contractor shall not be liable under this warranty for an amount greater than the amount set forth in Exhibit "C" hereto.
33. Severance. Any provision of this Agreement that is found invalid or unenforceable shall be deemed severed and all remaining provisions of this Agreement shall remain enforceable to the fullest extent permitted by law.
34. Authority. City warrants and represents that upon City Council approval, the Mayor of the City of Redondo Beach is duly authorized to enter into and execute this Agreement on behalf of City. The party signing on behalf of Contractor warrants and represents that he or she is duly authorized to enter into and execute this Agreement on behalf of Contractor, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Agreement on behalf of Contractor.
35. Waiver. The waiver by the City of any breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

*SIGNATURES FOLLOW ON NEXT PAGE*



IN WITNESS WHEREOF, the parties have executed this Agreement in Redondo Beach, California, as of this 6<sup>th</sup> day of October, 2020.

CITY OF REDONDO BEACH,  
a chartered municipal corporation

EXCELSIOR ELEVATOR CORPORATION,  
a California corporation

\_\_\_\_\_  
William C. Brand, Mayor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

\_\_\_\_\_  
Diane Strickfaden, Risk Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Webb, City Attorney

## **EXHIBIT "A"**

### **PROJECT DESCRIPTION AND/OR SCOPE OF SERVICES**

#### **I. CONTRACTOR'S DUTIES**

Contractor shall provide preventative maintenance services, including any support for related devices, controls, machines, services or equipment for the City's elevator equipment at City buildings and the Pier/Harbor facility (collectively the "Facilities") as described herein.

##### **A. SCHEDULE OF WORK/COMMUNICATIONS**

1. Normal Work Hours. The normal work hours shall be between 7:00 a.m. and 4:00 p.m., Monday through Thursday.
2. City Designated Contact. The City designated contact for the City facilities and Pier/Harbor are as follows.
  - a. City Facility. City Building Maintenance Manager or designee.
  - b. Pier/Harbor. City Pier/Harbor Manager or designee.
3. Contractor shall submit a schedule of work to the City designated contact, at least one week prior to the beginning of the work, listing and covering all the daily and weekly duties.
4. Contractor shall notify the City's designated contact thirty (30) minutes prior to the time the Contractor visits any City site. Contractor and City shall schedule the facilities to be serviced.
5. Contractor shall contact the City designated contact at least 30 minutes prior to arriving to arrange for parking arrangements at the City Pier area.
6. Contractor shall be responsible for the payment of parking. Contractor, at its discretion, may purchase a monthly parking entry card to access the Pier Parking Structures 24/7 to not require contacting the City designated contact.
7. Contractor shall report without delay to the City designated contact any damage to City equipment or City property caused by Contractor (including any of its employees, agents, and subcontractors), and shall compensate the City for any such damage within thirty (30) days of the date the damage was caused.
8. Contractor shall report in writing to the City designated contact any alterations to property or equipment made during the Contractor's performance of work. Contractor shall immediately restore any altered property and/or equipment to its original condition.

9. Contractor shall furnish, at its own sole cost and expense, mobile telephones and pagers to any supervisor, principals, employees, subcontractors, and agents performing the services described herein. Contractor shall furnish the phone numbers and names of these parties to the City designated contact. Contractor shall be available to the City by telephone 24 hours a day seven days a week.
10. Contractor shall reimburse the City for any costs associated with emergency calls requiring City or another contractor to repair or replace equipment due to Contractor's negligence. The City, at its discretion will invoice the Contractor or deduct the cost from the payments due to the Contractor.
11. Contractor may request a storage facility or area. However, Contractor's request must be in writing and it shall be in the City's sole discretion to approve or deny the request (which shall also be in writing).

#### **B. ADMINISTRATION AND MANAGEMENT**

1. Contractor shall produce a system of administering and managing the services, which shall include its management techniques, procedures, forms, tracking, and the coordination with City staff.
2. Contractor shall record start and finish times with service information on the data sheet service log and maintain the log at each site. Contractor shall provide a copy of the Preventative Maintenance Service work sheet to the City designated contact by fax, email, or in person the same day.
3. Contractor shall provide regular reports on the services performed and ongoing operating coordination with the City designated contact to make recommendations for any required repairs to the elevator(s).
4. Contractor shall provide regular check-in with feedback and status. Contractor shall furnish qualified personnel, manufacturer specified parts, approved materials, proper tools, and any other services in conformance with the terms and conditions of this Agreement.
5. Contractor shall develop, maintain, and update, as part of the maintenance documentation, data on each item of major equipment and the Facilities. The data must include necessary information to identify the equipment in order to reorder products and/or components/sub-assemblies. Contractor shall maintain copies of the data onsite for review by City staff.
6. In addition to preventative maintenance, Contractor's services shall include any support an accessory and related devices, control

components, and facility automation systems that are related to or a part of the identified mechanical and electrical equipment and its operation.

7. Contractor shall provide "on-call" emergency service as requested by the Public Works Director, Deputy Director, Building Maintenance Manager or designee. Emergency service shall be considered calls that are in addition to the regularly scheduled maintenance. This emergency service shall be provided on a 24-hour basis, weekends and federal and state legal holidays and the Contractor shall respond to any emergency call within two hours.
8. Ensure the elevators and related equipment are properly maintained and in compliance with State Codes to ensure that State operating permits will be obtained and maintained within State laws and guidelines.

### **C. EXTENT OF MAINTENANCE COVERAGE**

Contractor shall maintain the Hydraulic elevators as follows.

1. Furnish all material, labor, tools and equipment necessary to render complete preventative maintenance service on equipment described herein.
2. Utilize only personnel directly employed, trained and supervised by the Contractor. Ensure maintenance and service personnel are professionally trained to make adjustments and provide the maintenance to the equipment.
3. Provide at a minimum, semi-annual inspections by Contractor's supervisory staff. Schedule the inspections with the City's designated contact.
4. Maintain the equipment in accordance with the manufacturer specifications, notwithstanding any exceptions noted and agreed upon by both parties in writing.
5. Provide routine and methodical examinations, and adjustments and lubrication as required. If the elevators require any replacement or repair, Contractor shall repair or replace the following items; provided, however that, Contractor obtains City approval prior to any repair and/or replacement.
  - a. **Motor:** Windings, bearings, rotating element, commentators, brushes and brush holders.
  - b. **Motor Generator:** Windings, bearings, and rotating element.
  - c. **Hydraulic:** Pump Unit, valves and motors, jack unit except underground cylinders and piping.

- d. **Jack Unit:** Guide bearing, packing and packing gland only.
- e. **Controller:** All relays, resistors, contacts, coils, leads, dispatching and power equipment, selectors, solid state components, computer components, transformers, chokes and filters.
- f. **Dispatching Equipment:** All relays, resistors, contacts, coils, leads, fuses, transformer, timing devices and solid-state components.
- g. **Selector:** All electrical or mechanical drive components, cams, contacts, relays, resistors, leads, transformers and solid state components.
- h. **Governor:** Sheave, bearings, shafts, contacts and governor jaws.
- i. **Hoist way Equipment:** Buffers, compensating sheave assemblies, compensating cable or chains, guide rails, counterweight safeties and guide shoes, load weighing equipment and seismic devices.
- j. **Structural Car Frame:** Safeties and guide shoes.
- k. **Power Door Operator:** Car and hoist way door hanger tracks and rollers, car opening protective devices, door auxiliary closer, door gibs and door interlocks.
- l. **Elevator Control Wiring:** Located in the machine room, hoist way, car including the traveling cables.
- m. **Fixtures:** Call and hall operating buttons, contacts and signal bulbs, key switches and locks, lamps and sockets. Perform the replacement of signal fixture bulbs during regular examinations.
- n. **Car Equipment:** Includes power door operator, door protective devices, car door hangers, car door contact, car guide shoes including roller guides, and any related parts.
- o. **Furnish:** Lubricants and Hydraulic Fluid.
- p. **Safety Devices:** Periodically examine the devices.
- q. **Wire Rope Cables:** Renew as often as necessary to maintain industry safety standard.
- r. **Valves:** Includes relief valve, pilot, lowering, leveling and checking valves, and any of related parts.

- s. **Environmental:** Clean all hydraulic oil spills and dispose of all debris in an environmentally-friendly manner.

**D. PARTS INVENTORY AND LUBRICANTS**

Contractor shall maintain a supply of replacement parts and lubricants required for routine maintenance. These replacement parts shall be original equipment manufactured or parts specifically selected by the Contractor. Contractor shall ensure all replacement parts are new or refurbished and in accordance with City's standards.

**E. MONTHLY FIRE RECALL TESTING**

Contractor shall conduct monthly fire recall testing on all elevators equipped with Contractor's provided equipment and maintain a log of the test results, as required by California Fire Code.

**F. SERVICES SHALL BE PROVIDED AT THE FOLLOWING SITES.**

Location	Mfg.	Unit	Machine Number
401 Diamond Street	Oliver & Williams	Hydraulic Passenger	61539
415 Diamond Street	Dover	Hydraulic Passenger	107019
415 Diamond Street	Oliver & Williams	Dumbwaiter	43109
101 Torrance Blvd.	U.S	Hydraulic Passenger	53871
101 Torrance Blvd.	U.S.	Hydraulic service	53872
309 Esplanade	Dover	Hydraulic Passenger	107269
303 N. Pacific Coast Hwy	Reliable	Hydraulic Passenger	107151
303 N. Pacific Coast Hwy	Reliable	Hydraulic Service	107236
180 North Harbor Drive	Otis	Hydro Passenger	75023
200 N. Pacific Coast Hwy	Otis/Coast	Hydraulic Passenger	61485

**G. EXCLUSIONS**

The following items are not included in Agreement.

1. Braille and tactile plates. Key mortise cylinders, instruction or warning signs in connection with the use of the equipment by passengers.
2. Telephones installed by other contractors, smoke and heat detectors with related wiring and annunciation panels, air conditioners or cooling systems, heating systems, card key or touch pads, intercom, music or security systems, computer devices, keyboards, or display units.
3. Failure of hydraulic jack unit, buried or unexposed pipe or conduit from corrosion or electrolysis.

4. Hoist way enclosure, including hoist way door panels, frames, sills, fascia, hoist way gates, hoist way cleaning. Signal fixture and operating station cover plates or plastic inserts.

#### **H. NORMAL WEAR AND TEAR**

All repairs and replacements covered by this Agreement are limited to those caused by normal wear and tear. Contractor will not replace or repair equipment by reasons of City's negligence or misuse or for any cause beyond Contractor's control, including City's incorrect use of key switches, damages to the equipment by acts of God, forces of elements, and substantial changes in the normal environment and/or operating conditions.

### **II. CITY'S DUTIES**

#### **A. NORMAL WORK HOURS**

City, in its discretion may grant Contractor exceptions to working outside the normal work hours. Exceptions will only be valid if the City designated contact approves the exception in writing.

#### **B. SATISFACTION**

If the Contractor fails to perform to City's full satisfaction, City reserves the right to either hire another contractor or perform the services itself. In the event another contractor or the City performs the services, City will subtract the cost from the payments due to the Contractor.

## **EXHIBIT "B"**

### **SCHEDULE FOR COMPLETION**

**TERM.** The term of this Agreement shall commence on October 5, 2020 and terminate on October 5, 2023.



## EXHIBIT "C"

### COMPENSATION

Provided Contractor is not in default under this Agreement, Contractor shall be compensated as provided below.

- A. **AMOUNT.** Contractor shall be paid in accordance with the following schedule for the services described in Exhibit "A".

Service	Amount
Preventative Maintenance	\$1,065 per month
Emergency Call-Outs – Regular Business Hours	\$180 per hour
Emergency Call-Outs – Overtime Hours	\$305 per hour
Mark-Up Added to Parts	15% of part
Call-Out Minimum Charge	\$360 per call-out

In no event shall Contractor's total compensation exceed \$123,189 during the three year term of this Agreement.

- B. **METHOD OF PAYMENT.** Contractor shall provide monthly invoices based upon the time spent during the previous month to City for approval and payment. Invoice must provide the hourly rate (if applicable), fee for service, date of service, type of service performed, markup (if applicable). Contractor shall submit two hard copies of the invoice with supporting documentation. Invoices must be itemized, adequately detailed, based on accurate records, and in a form reasonably satisfactory to City.
- C. **SCHEDULE FOR PAYMENT.** City agrees to pay Contractor within thirty (30) days of receipt of the monthly invoice; provided, however, that services are completed to the City's reasonable satisfaction.
- D. **NOTICE.** Written notices to City and Contractor shall be given by registered or certified mail, postage prepaid and addressed to or personally served on the following parties.

Contractor: Excelsior Elevator Corporation  
1961 Blair Avenue  
Santa Ana, CA 92705  
Attention: Linda Rough

City: City of Redondo Beach  
Public Works Department

531 N Gertruda Ave  
Redondo Beach, CA 90277  
Attention: Rob Osborne

All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by regular mail, or the next day if sent overnight delivery. Notice of rate changes or distribution changes must be sent by certified mail. Changes in the respective address set forth above may be made from time to time by any party upon written notice to the other party.

## **EXHIBIT "D"**

### **INSURANCE REQUIREMENTS FOR CONTRACTORS**

Without limiting Contractor's indemnification obligations under this Agreement, Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

#### **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

Workers' Compensation insurance as required by the State of California.

Employer's Liability Insurance.

#### **Minimum Limits of Insurance**

Contractor shall maintain limits no less than:

General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The general aggregate limit shall apply separately to this project.

Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

#### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers or (2) the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

#### Additional Insured Endorsement:

**General Liability:** The City, its officers, elected and appointed officials, employees, and volunteers shall be covered as insureds with respect to liability arising out of work performed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy.

**Automobile Liability:** The City, its officers, elected and appointed officials, employees, and volunteers shall be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor.

For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, elected and appointed officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Each insurance policy shall be endorsed to state that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

Each insurance policy shall be in effect prior to awarding the contract and each insurance policy or a successor policy shall be in effect for the duration of the project. The maintenance of proper insurance coverage is a material element of the contract and failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract on the Contractor's part.

#### Acceptability of Insurers

Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:VII and which are authorized to transact insurance business in the State of California by the Department of Insurance.

### Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on the City authorized forms provided with the contract specifications. Standard ISO forms which shall be subject to City approval and amended to conform to the City's requirements may be acceptable in lieu of City authorized forms. All certificates and endorsements shall be received and approved by the City before the contract is awarded. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

### Subcontractors

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

### Risk Management

Contractor acknowledges that insurance underwriting standards and practices are subject to change, and the City reserves the right to make changes to these provisions in the reasonable discretion of its Risk Manager.

## **EXHIBIT "E"**

### **AGREEMENT TO COMPLY WITH CALIFORNIA LABOR LAW REQUIREMENTS**

1. Contractor acknowledges that the project as defined in this Agreement between Contractor and the City, to which this Agreement to Comply with California Labor Law Requirements is attached and incorporated by reference, is a "public work" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"), and that this Agreement is subject to (a) Chapter 1, including without limitation Labor Code Section 1771 and (b) the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform all work on the project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Pursuant to Labor Code Section 1771.4, Contractor shall post job site notices, as prescribed by regulation.

4. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

5. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the City, forfeit the maximum amount allowable by law for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

6. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the City of the location of the records.

7. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code title 8, section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

8. Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of 8 hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 and 1/2 times the basic rate of pay.

9. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

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

10. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

11. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor's expense with counsel acceptable to the City) the City, its officials, officers, employees, agents, independent contractors, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. All duties of Contractor under this Section shall survive termination of the Agreement.