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ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF UPLAND AND G.M. SAGER CONSTRUCTION CO., INC

This Agreement is made and entered into as of October 12, 2026 by and between the City of Upland, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 ("City"), and G.M. Sager Construction Co., Inc., a California corporation with its principal place of business at 1380 S. East End Ave., Pomona, CA 91766 (hereinafter referred to as "Consultant"). City and Consultant are hereinafter sometimes referred to individually as "Party" and collectively as the "Parties."

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

On-Call Asphalt & Concrete Repair Resulting from Water Utility Repairs (hereinafter referred to as "the Project").

B. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional services for asphalt and concrete repairs, and possesses the necessary expertise, resources, and personnel to complete the Project in a timely and professional manner as specified herein.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

1. Incorporation of Recitals. The recitals above are true and correct and are hereby incorporated herein by this reference.

2. Services. Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A." Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional consulting services necessary for the Project. The services shall be more particularly described in the individual Task Order issued by the City or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "B".

3. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel identified in their proposal. Consultant warrants that Consultant is familiar with all laws that may affect its

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performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement. Consultant further represents that no City employee will provide any services under this Agreement.

4. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "A" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 4(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of $2,400,000.00 [Two Million Four Hundred Thousand Dollars] for the initial three-year term of this Agreement. This amount is to cover all related costs, and the City will not pay any additional fees for printing expenses. Consultant may submit invoices to City for approval. 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. The invoice shall describe in detail the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

5. Additional Work. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

a. The City Manager may approve Additional Work, as further defined in Section 5, up to ten percent (10%) of the amount of the Agreement or fifty thousand dollars ($50,000.00). Any additional work in excess of this amount shall be approved by the City Council.

6. Term. The term of this Agreement shall be from October 12, 2026 to October 11, 2029, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than two additional one-year terms. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the City. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

7. Maintenance of Records; Audits.

a. Records of Consultant's services relating to this Agreement shall be

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maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times for a period of four (4) years from the Effective Date.

b. Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City.

8. Time of Performance. Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of a Task Order from the City to proceed.

9. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects the Consultant's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); and (4) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety.

b. Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Delays shall not entitle Consultant to any additional compensation regardless of the Party responsible for the delay.

c. Notwithstanding the foregoing, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

10. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

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c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

11. Standard of Care. Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from working on the Services by the Consultant and shall not be re-employed to perform any of the Services.

Consultant shall not use any Subcontractor to provide the Services, or any portion of the work required by this Agreement, without prior written approval of City. In the event that City authorizes Consultant to use a Subcontractor, Consultant shall enter into a written agreement with the Subcontractor, which must include all provisions of the Agreement, including a restriction on the Subcontractor's use of further independent contractors, subcontractors or subconsultants without the City's prior written consent.

12. Conflicts of Interest. During the term of this Agreement, Consultant shall at all times maintain a duty of loyalty and a fiduciary duty to the City and shall not accept payment from or employment with any person or entity which will constitute a conflict of interest with the City.

13. City Business Certificate. Consultant shall, prior to execution of this Agreement, obtain and maintain during the term of this Agreement a valid business registration certificate from the City pursuant to Title 5 of the City's Municipal Code and any and all other licenses, permits, qualifications, insurance, and approvals of whatever nature that are legally required of Consultant to practice his/her profession, skill, or business.

14. Assignment and Subconsultant. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall

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constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

15. Independent Consultant/Contractor. Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided. Any personnel performing the work governed by this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

a. 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.

16. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

a. Additional Insured

The City of Upland, its officials, officers, employees, agents, and volunteers shall be named as additional insureds on Consultant's and its subconsultants' policies of commercial general liability and automobile liability insurance using the endorsements and forms specified herein or exact equivalents.

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b. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

> Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

(1) Bodily Injury and Property Damage
(2) Personal Injury/Advertising Injury
(3) Premises/Operations Liability
(4) Products/Completed Operations Liability
(5) Aggregate Limits that Apply per Project
(6) Explosion, Collapse and Underground (UCX) exclusion deleted
(7) Contractual Liability with respect to this Contract
(8) Broad Form Property Damage
(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give City, its elected and appointed officials, officers, employees, agents, and City-designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

c. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

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(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give City, its elected and appointed officials, officers, employees, agents and City designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

d. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

	Combined Single Limit
Commercial General Liability	$2,000,000 per occurrence/$4,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	$1,000,000 per occurrence

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a

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waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (ACORD Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of the premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the

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limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VIII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including, but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor the City Council, nor any member of the City Council, nor any of the officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(vi) Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided

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by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

17. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably approved by the City), indemnify and hold the City, its elected and appointed officials, officers, employees, agents, and authorized volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, or this Agreement, including without limitation the payment of all damages, expert witness fees, attorneys' fees and other related costs and expenses. This indemnification clause excludes Claims arising from the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, the City Council, members of the City Council, its employees, or authorized volunteers. Consultant's indemnification obligation shall survive the expiration or earlier termination of this Agreement.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code Section 2782.8), then, and only to the extent required by Civil Code Section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to the extent which the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant in the performance of the services or this Agreement, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

18. California Labor Code Requirements. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor

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Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

If the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

19. Verification of Employment Eligibility. By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

20. Laws and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

21. Termination or Abandonment

a. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

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c. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

22. 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. The costs, salary, and expenses of the City Attorney's Office in enforcing this Agreement on behalf of the City shall be considered as "attorneys' fees" for the purposes of this Agreement.

23. 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's professional services occurs, Consultant shall, at no cost to City, provide all other services necessary to rectify and correct the matter to the sole satisfaction of the City and to participate in any meeting required with regard to the correction.

24. Prohibited Employment. Consultant shall not employ any current employee of City to perform the work under this Agreement while this Agreement is in effect.

25. 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.

26. Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

27. Organization. Consultant shall assign Ramond De Alba as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

28. Limitation of Agreement. This Agreement is limited to and includes only the work included in the Project described above.

29. Notice. Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the following addresses and shall be effective upon receipt thereof

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CITY:

City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attn: City Manager

CONSULTANT:

GM Sager Construction, CO., INC.
1380 S. East End Avenue
Pomona, CA 91766
Attn: Michael Sager

With Copy To:

City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attn: City Attorney

30. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

31. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

32. Entire Agreement. This Agreement, including Exhibit "A" and executed Task Orders represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises, or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This is an integrated Agreement.

33. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, 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, and the remaining provisions of this Agreement shall remain in full force and effect.

34. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

35. Non-Waiver. The delay or failure of either Party at any time to require performance or compliance by the other Party of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance.

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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 with respect to any occurrence or event shall not be deemed a waiver of any right or remedy with respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

36. Time of Essence. Time is of the essence for each and every provision of this Agreement.

37. 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.

38. Amendments. Only a writing executed by all of the Parties hereto or their respective successors and assigns may amend this Agreement.

39. City's Right to Employ Other Consultants. City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

40. Prohibited Interests. Consultant maintains and warrants that it has neither employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

41. 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 single Agreement.

42. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

43. 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.

44. Order of Precedence.

The following order and succession of the referenced documents shall govern in the event of conflict between documents:

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1. Amendment(s)

2. This Agreement

3. Task Orders

45. Electronic Signatures. Each Party acknowledges and agrees that this Agreement may be executed by electronic or digital signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature

[SIGNATURES ON FOLLOWING PAGE]

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SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF UPLAND AND GM SAGER CONSTRUCTION CO., INC.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF UPLAND

APPROVED BY:

DocuSigned by:
Michael Blay
ED26F9DCC3FF48A...

Michael Blay
City Manager

ATTESTED BY:

DocuSigned by:
Keri Johnson
F421A8F85BE347A...

Keri Johnson, CMC
City Clerk

APPROVED AS TO FORM:

Signed by:
Thomas Rice
0A98505EF9C842A...

Best Best & Krieger LLP
City Attorney

CONSULTANT

GM SAGER CONSTRUCTION CO., INC.

APPROVED BY:

Signed by:
Gary Sager
D8FCA0ADD9F04B9...

Gary Sager
President

Signed by:
Michael Sager
2D5DAD31FF6F427...

Michael Sager
Vice President

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EXHIBIT A

ASPHALT REPAIR

	REMOVE EXISTING AND BASE PAVE UP TO 4" THICK	REMOVE EXISTING AND BASE PAVE UP TO 6" THICK	BUSY STREET SECTION REQUIRING HEAVY TRAFFIC CONTROL REMOVE AND BASE PAVE UP TO 6" THICK
UP TO 50 SQ. FT.	$ 900.00	$ 1,100.00	$ 1,300.00
50 SF UP TO 100 SQ. FT.	$900.00 PLUS $ 15.00 /SQ.FT. OVER 50 SQ.FT.	$1,100.00 $ 18.00 /SQ.FT. OVER 50 SQ.FT.	$ 1,300.00 PLUS $ 20.00 /SQ.FT. OVER 50 SQ.FT.
101 SQ.FT. UP TO 200 SQ.FT.	$ 1,650.00 + $ 13.00 /SQ.FT. OVER 100 SQ.FT.	$ 2,000.00 + $ 16.00 /SQ.FT. OVER 100 SQ.FT.	$ 2,300.00 + $ 18.00 /SQ.FT. OVER 100 SQ.FT.
201 SQ.FT. UP TO 500 SQ.FT.	$ 2,950.00 + $ 12.00 /SQ.FT. OVER 200 SQ.FT.	$ 3,600.00 + $ 15.00 /SQ.FT. OVER 200 SQ.FT.	$ 4,100.00 + $ 17.00 /SQ.FT. OVER 200 SQ.FT.
501 SQ.FT. UP TO 1000 SQ. FT.	$ 6,550.00 + $ 11.00 /SQ.FT. OVER 500 SQ.FT.	$ 8,100.00 + $ 14.00 /SQ.FT. OVER 500 SQ.FT.	$ 9,200.00 + $ 16.00 /SQ.FT. OVER 500 SQ.FT.
ADDITIONAL THICKNESS	$ 1.50 /SQ.FT.IN.	$ 1.50 /SQ.FT.IN.	$ 2.00 /SQ.FT.IN.

GRINDING	MIN REPAIR $ 300.00	PLUS $2.50	PER SQ.FT.IN
ASPHALT CAP, 1" THICKNESS	MIN REPAIR $ 450.00	PLUS $ 3.50	PER SQ.FT.IN.
ASPHALT MACHINE BERM. 6"	MIN REPAIR $ 1,000.00	PLUS $ 18.00	PER LN.FT.
CRUSHER BASE	MIN REPAIR $ 400.00	PLUS $ 0.70	PER SQ.FT.IN.

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CONCRETE REPAIR

	REMOVE & REPLACE SIDEWALK SECTION 4" THICK	REMOVE & REPLACE SIDEWALK SECTION 6" THICK	REMOVE & REPLACE CROSS GUTTER, APPROACH OR STREET SECTION UP TO 8" THICK	BUSY STREET SECTION REQUIRING HEAVY TRAFFIC CONTROL REMOVE & REPLACE UP TO 8" THICK
Up to 50 SF	$ 2,500.00	$ 2,800.00	$ 3,100.00	$ 3,600.00
50 UP TO 100 SQ.FT.	$2,500 PLUS $ 30.00 /SQ.FT. OVER 50 SQ.FT.	$ $2,800.00 PLUS $ 33.00 /SQ.FT. OVER 50 SQ.FT.	$ 3,100.00 PLUS $ 36.00 /SQ.FT. OVER 50 SQ.FT.	$3,600.00 PLUS $ 38.00 /SQ.FT. OVER 50 SQ.FT.
101 SQ.FT. UP TO 200 SQ.FT.	$4,000.00 + $ 22.00 /SQ.FT. OVER 100 SQ.FT.	$4,450.00 + $ 25.00 /SQ.FT. OVER 100 SQ.FT.	$4,900.00 + $ 28.00 /SQ.FT. OVER 100 SQ.FT.	$5,500.00 + $ 30.00 /SQ.FT. OVER 100 SQ.FT.
201 SQ.FT. UP TO 500 SQ.FT.	$6,200.00 + $ 17.00 /SQ.FT. OVER 200 SQ.FT.	$6,950.00 + $ 20.00 /SQ.FT. OVER 200 SQ.FT.	$7,700.00 + $ 23.00 /SQ.FT. OVER 200 SQ.FT.	$8,500.00 + $ 25.00 /SQ.FT. OVER 200 SQ.FT.
501 SQ.FT. UP TO 1000 SQ.FT.	$11,300.00 + $ 15.00 /SQ.FT. OVER 500 SQ.FT.	$12,950.00 + $ 18.00 /SQ.FT. OVER 500 SQ.FT.	$14,600.00 + $ 21.00 /SQ.FT. OVER 500 SQ.FT.	$16,000.00 + $ 23.00 /SQ.FT. OVER 500 SQ.FT.

ADDITIONAL THICKNESS	$ 1.50 /SQ.FT.IN.	$ 1.50 /SQ.FT.IN.	$ 1.50 /SQ.FT.IN.	$ 2.00 /SQ.FT.IN.

CURB & GUTTER SECTION	MIN. REPAIR (10 LN.FT.)	UP TO 20 LN.FT.	21 LN.FT. TO 50 LN.FT.	51 LN.FT. TO 100 LN.FT.
	$2,800.00	$2,800.00 + $150.00 /LN.FT. OVER 10 LN.FT.	$4,300.00 + $100.00 /LN.FT. OVER 20 LN.FT.	$7,300.00 + $90.00 /LN.FT. OVER 50 LN.FT.

DOWLING	$ 400.00 MINIMUM PLUS $22.00 /PER DOWEL

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MISCELLANEOUS PRICES

ARROW BOARD		$300.00 PER DAY
SAW CUTTING 4" DEEP	$ 325.00 PLUS	$ 1.30 PER LN.FT.
BUSY STREET	$ 400.00 PLUS	$ 1.80 PER LN.FT.
ADDITIONAL THICKNESS OVER 4" THICK		$0.40 PER LN.FT.IN.
VACUUM & DISPOSAL OF SAW CUT LIQUID & SPOILS	$ 0.00 PLUS	$ 0.00 PER LN.FT.IN.

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EXHIBIT B

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: ON-CALL ASPHALT & CONCRETE REPAIRS RELATING TO WATER UTILITY REPAIRS

Consultant: G.M. SAGER CONSTRUCTION CO., INC

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed $_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

CITY OF UPLAND	**G.M. SAGER CONSTRUCTION CO., INC**
Dated:_____	Dated:_____
By: _____	By: _____