

Appendix 2

CITY OF PASADENA
BASELINE SERVICES CONTRACT NO. 17,343

This agreement is made on Jan. 5th, 2001, at Pasadena, California, between the City of Pasadena (the "CITY"), a municipal corporation, and the Old Pasadena Management District (the "DISTRICT"), a non-profit corporation.

RECITALS:

WHEREAS, pursuant to its Resolution No. 7884 (the "Resolution") the City Council of the CITY has established a property and business improvement district designated as the "Old Pasadena Management District" (the "OPMD"), under Section 36600, et seq. of the California Streets and Highway Code (the "Act"); and

WHEREAS, pursuant to the Resolution and the Act, assessments will be levied annually against the assessable parcels in the OPMD commencing with Fiscal Year 2001 and continuing through Fiscal Year 2005; and

WHEREAS, on May 17, 2001, the CITY entered into an agreement (the "Enhanced Services Agreement") with the DISTRICT under which the DISTRICT will administer a program of improvements and activities in connection with the OPMD for Fiscal Years 2001 through 2005 (the "Enhanced Services Program"); and

WHEREAS, the Enhanced Services Program will be partially funded from the OPMD assessments; and

WHEREAS, the CITY currently provides municipal services, including police and sanitation services, within the territorial limits of the OPMD; and

WHEREAS, the CITY and the DISTRICT intend for the Enhanced Services Program to supplement, rather than supplant, existing municipal services; and

WHEREAS, Section 36636 of the Act provides that the City Council may execute a baseline services contract establishing levels of City services that will continue after the OPMD has been formed; and

WHEREAS, the CITY and the DISTRICT wish to execute such an agreement.

NOW, THEREFORE, the CITY and DISTRICT mutually agree as follows:

1. TERM OF AGREEMENT

1.1_ This Agreement shall be effective so long as the Enhanced Services Agreement is effective.

2. MAINTENANCE OF SERVICE LEVEL

- 2.1 The CITY and the DISTRICT agree that Attachment A to this agreement contains a complete representation of the services provided within the territorial limits of the OPMD prior to the formation of the OPMD.
- 2.2 During the term of this Agreement, and except as elsewhere provided in this Agreement, the CITY will continue to provide within the territorial limits of the OPMD each service listed in Attachment A at a level of service that is no less than that indicated in Attachment A.
- 2.3 Where Attachment A indicates that (1) the CITY will maintain or service infrastructure, fixtures, landscaping, or facilities or (2) a service will be provided "as required" or "on an as-needed basis," such service will be provided by the CITY according to CITY policies and procedures in effect at the time the service is needed. These policies and procedures may be changed from time to time at the sole discretion of the CITY. The CITY will not, based solely on the existence of services provided by the DISTRICT, adopt policies and procedures that provide a reduced level of service to the OPMD as compared with service levels provided to other areas of the CITY.

3. CITYWIDE REDUCTION IN SERVICE

- 3.1 The CITY and the DISTRICT agree that at any time during the term of this Agreement the CITY may, on a citywide basis, reduce the level of any service listed in Attachment A. If such a citywide reduction occurs, the CITY may reduce the levels of service provided within the territorial limits of the OPMD to an extent not disproportional to the citywide reductions.

4. WAIVER BY DISTRICT

- 4.1 Should the DISTRICT determine that any service indicated in Attachment A is no longer needed, the DISTRICT may, in writing, release the CITY from its obligation to provide such service.

5. INSURANCE.

District shall, at its own expense, procure and maintain policies of insurance of the types and in the amounts set forth below, for the duration of this agreement, including any extensions thereto. The policies shall state that they afford primary coverage.

- 5.1.1 General Liability with minimum limits of at least \$2,000,000 combined single limits written on a Comprehensive General Liability "occurrence" form. Premises/Operations and Personal Injury coverage is required. The City of Pasadena, its directors, commissioners, officers, employees, agents and volunteers must be endorsed on the policy as additional insured as respects liability arising out of the

District's performance of this Agreement.

- A. If District employs other contractors as part of its performance under this agreement, Contractor's Protective Coverage is required. District may insure all subcontractors under its own policy or shall procure and furnish separate insurance for each subcontractor, meeting the requirements set forth herein.
- B. Blanket Contractual Coverage.
- C. Personal Injury and Advertising Coverage

5.1.2 District shall comply with the applicable sections of the California Labor Code concerning workers' compensation for injuries on the job. Compliance is accomplished in one of the following manners:

- 1. Provide copy of permissive self-insurance certificate approved by the State of California; or
- 2. To the extent that the District has employees, the District shall secure and maintain in force a policy of workers' compensation insurance with statutory limits and Employer's Liability Insurance with a minimal limit of \$1,000,000 per accident. The policy shall be endorsed to waive all rights of subrogation against City, its directors, commissioners, officers, employees, and volunteers for losses arising from performance of this Agreement; or
- 3. Provide a signed statement certifying that no employees subject to the Labor Code's Workers' Compensation provision will be used in performance of this Contract.

5.1.3 DISTRICT shall procure and maintain at its own expense a policy covering its Directors & Officer Liability with minimal limits of \$1,000,000.

5.1.4 Each insurance policy included in this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) days' prior written notice to City, and that coverage is primary to any other coverage available to City.

5.1.5 Insurance shall be placed with insurers with a Best's rating of no less than B:VIII. Insurers shall be admitted in the State of California unless pre-approved in writing by City.

5.1.6 Prior to commencement of performance, District shall furnish City with a certificate of insurance for each policy. Each certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate(s) must be in a form approved by City. City may require complete, certified copies of any or all policies at any time.

5.2 Failure on the part of the DISTRICT to procure or maintain required insurance shall constitute a material breach of contract under which CITY may immediately terminate this agreement.

6. NOTICES

6.1. All notices, plans, or reports permitted or required under this Agreement shall be in

writing, and shall be deemed made when personally delivered to the following persons as provided in this Agreement. Additionally, such notices shall be deemed made 48 hours after deposited in the U.S. Mail, first class postage prepaid and addressed to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CITY OF PASADENA
100 N. Garfield Avenue
Room No. 237
Pasadena, California 91109
Attention: City Manager

DISTRICT
Maggie Campbell, President and CEO
Old Pasadena Management District
101 E. Green Street, Suite 2
Pasadena, California 91105

7. CONFLICT OF INTEREST.

7.1. For the duration of this Agreement, the DISTRICT or its employees will not act as consultant or perform services of any kind for any other person or entity in regard to the OPMD without the prior written consent of the CITY. With the exception detailed in the following sentence, neither members of the Board of Directors of the DISTRICT, nor its Chief Executive Officer, may enter into any additional contracts in regard to the OPMD, nor vote on any OPMD matters, when such contract or matter would be of financial benefit to the member or director over and above the general financial benefit to all businesses in the OPMD. If approved by a 2/3 vote of the DISTRICT's Board of Directors, the DISTRICT may contract with a member of the Board of Directors to lease space for the DISTRICT's operations.

8. NONDISCRIMINATION.

8.1. The DISTRICT represents and agrees that it does not and will not discriminate against any employee or applicant for employment because of political affiliation or opinion, age, ancestry, marital status, physical condition, pregnancy or pregnancy-related condition, race, religion, color, sex, sexual orientation, national origin or medical condition.

9. GENERAL PROVISIONS.


9.1. Assignment. Neither this Agreement, nor any interest herein, shall be assigned by any party without the prior written consent of the other party.

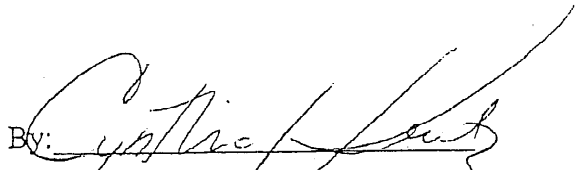
- 9.2. Independent Contractor. It is agreed and understood that the DISTRICT is a wholly independent contractor. This Agreement is not intended and shall not be construed to create the relationship of agent, employee, servant, partnership, joint venture or association as between the CITY and the DISTRICT. Neither the CITY nor its agents shall have control over the conduct of the DISTRICT except as set forth herein. The CITY shall have no liability or responsibility for payment of any wage or benefits to the DISTRICT's employees, for whom the DISTRICT shall bear sole responsibility and liability.
- 9.3. Default of Contractor. In the case of default by the DISTRICT in providing any service, or in performing this Agreement, the CITY may, in addition to all other remedies it may have, including but not limited to termination of the Agreement and/or filing of a suit at law or equity, obtain such services from other sources and deduct the cost thereof from any costs due or thereafter owing to the DISTRICT relating to such items or to otherwise claim and collect such costs.
- 9.4. Attorney's Fees. If a legal action or proceeding is brought by any party because of default under this Agreement, or to enforce a provision thereof, the prevailing party therein shall be entitled, in addition to any other relief, to recover reasonable attorney's fees and court costs from the losing party as determined by the court in which said action or proceeding is pending.
- 9.5. Indemnity. The DISTRICT shall indemnify and hold the CITY harmless and defend, with counsel acceptable to the CITY, the CITY and every officer, employee and agent of the CITY, from any and all claims, causes of action, damages to persons or property, penalties, obligations, liabilities or financial losses, including, without limitation, attorney's fees and court costs arising directly or indirectly from any or all negligent or other wrongful acts, errors or omissions of the DISTRICT, its agents, employees and subcontractors in the performance of this Agreement.
- 9.6. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement may only be modified in writing signed by both parties.
- 9.7. Governing Law. This Agreement shall be governed by the laws of the State of California.
- 9.8. Time of Essence. Time is of the essence of each and every provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this 17th day of May, 2001.

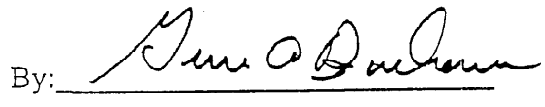
CITY OF PASADENA

ATTEST:

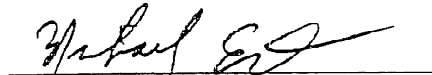

JANE L. RODRIGUEZ
City Clerk

By: 
CYNTHIA J. KURTZ, City Manager

OLD PASADENA MANAGEMENT DISTRICT

By: 

APPROVED AS TO FORM:


MICHAEL ESTRADA
Assistant City Attorney

ATTACHMENT A

BASELINE LEVEL OF SERVICES PROVIDED BY CITY OF PASADENA

<u>ACTIVITY</u>	<u>LEVEL OF SERVICE</u>
Police Services	
1. Patrol	Two to three patrol cars, seven days a week, twenty-four hours per day, in the Midtown area, which includes Old Pasadena.
2. Foot Patrol	Foot patrols on Friday and Saturday nights utilizing force of six regular officers and four reserve officers.
3. Bike Patrol	Bike patrols as currently offered by citywide unit.
4. Substation	One substation located in Old Pasadena
5. Motorcycle	One traffic sergeant overseeing Friday and Saturday night policing within the OPMD. Two motorcycle officers available on Friday and Saturday Night. All motorcycle services to be provided by citywide unit.
6. Special Problems Unit	Service of citywide unit as required.
Maintenance Services	
1. Lighting	Lights changed on as needed basis. Necessary upkeep and maintenance of lighting. Preventative maintenance every nine months.
2. Graffiti Removal	Two trucks, operated seven days a week on a citywide basis. Response to calls from Hotline number and police officers. Service provided at no charge to building owner.
3. Vacant Lots Maintenance	Response to reports of owners not maintaining their property
4. Parking Off-Street Lots	Maintenance of two City-owned parking structures through private contractor. Three shifts operating daily to clean and maintain parking structure and trash compactor. Cleaning of walls, floors, trash receptacles elevators, stairwells and signs. Removal of grease and graffiti.
5. Parking On Street	Maintenance of parking spaces and meters, including repairing and painting meters. Machine sweeps three times a week. Street maintenance,

ACTIVITY

LEVEL OF SERVICE

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| 6. Street Sweeping | including repairing pot holes, laying asphalt patches and maintaining storm drains. |
| 7. Trash dumping | City shall provide place at the City Yards to dump trash collected by the OPMD and shall pay all dump fees. |
| 8. Landscaping | Maintenance of street trees and tree wells and grates. |
| 9. Landscaping -
Tree Trimming | Pruning of ficus nitida trees on four-year pruning schedule. Pruning of other species are at varying schedules from four to fifteen years. Trees to be maintained and groomed. |
| 10. Landscaping -
Tree Planting | Planting and removal of trees as necessary. |

Other Services

- | | |
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| 1. Business recruitment and retention | Coordinated efforts with the DISTRICT, retailers and property owners to develop, attract and retain retail tenants, investors, office tenants and customers for Old Pasadena. The goal of this shall be to (1) work to gain new tenants and customers throughout the OPMD on and off Colorado Boulevard; (2) develop programs to educate and retain independent business. |
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