

Anaheim Resort Transportation

1354 South Anaheim Blvd. • Anaheim, CA 92805 888-364-ARTS • RideArt.org



DATE: JULY 24, 2019
TO: ATN BOARD OF DIRECTORS
FROM: DIANA KOTLER
RE: AGENDA ITEM #2

RECOMMENDATION:

Authorize Executive Director to execute a Professional Services Agreement with Uprite Construction for pre-construction services in the amount not to exceed \$28,000.00

DISCUSSION:

As the ATN continues to develop strategies for construction of a new facility and relocation of its current operations from 1354 South Anaheim Boulevard, Anaheim, facility, ATN need to begin work on the development of the initial design and plans in the preparation for the permitting process and trade bid documents.

On June 12, 2019, ATN signed Letter of Intent with GreenLaw Partners for the sale of ATN current location at 1354 South Anaheim Boulevard, Anaheim. GreenLaw Partners and Uprite Construction have an equity relationship and through this existing relationship, Uprite Construction will provide the following pre-construction services for the ATN:

1. Provide preliminary site plan for Claudina and Manchester sites
2. Provide preliminary building exterior rendering for both sites
3. Provide preliminary floor plans for building
4. Meet with appropriate City of Anaheim departments to get preliminary approval/requirements for each site
5. Meet with Anaheim Public Utilities Department to determine electric infrastructure requirements
6. Meet with ATN to develop, review and receive approval for all project-related requirements/details
7. Review any due diligence received by ATN for both development sites
8. Prepare, distribute, receive and evaluate trade bid documents
9. Provide preliminary construction cost estimates/budget for both development sites

Following preparation and completion of the pre-construction tasks, Uprite Construction will provide ATN with trade bidding process and construction management services through the process. These items are discussed in Agenda Item 3.



COST PROPOSAL

ATTENTION: Diana Kotler
PROJECT: ATN Anaheim new locations
DATE: 6/5/19

Greenlaw is presenting a proposal to perform the below items as defined below.

SCOPES OF WORK: Provide preconstruction services for the Manchester and Anaheim proposed sites to include the following:

1. Provide preliminary site plan for both sites
2. Provide preliminary building exterior rendering for both sites
3. Provide preliminary floor plans for buildings
4. Meet with City Agencies to get preliminary approval/requirements for each site.
5. Meet with Utility Agencies to determine utility requirements or conditions.
6. Meet with ATN to go over project requirements/details.
7. Review any due diligence received by ATN for either site
8. Provide preliminary Construction budgets for both sites.

Total cost to perform the above \$28,000.00

NOTES:

This exercise is to provide preliminary info based on information we obtain to come up with a preliminary construction budget and identify risk.

EXCLUSIONS:

1. Survey/topo
2. Final plans of any type
3. Soils reports or any testing
4. Pre-Construction videos/survey
5. Geotechnical/Inspection Services
6. Any work unless specifically included above

PAYMENT TERMS

1. Progress Payment: Payments in accordance with mutually agreed schedule of values due and payable (15) days after receipt of our monthly billing.
2. Retention: Shall not apply

Respectfully
Chris DellAringa



June 10, 2019

Diana Kotler
Executive Director
Anaheim Resort Transportation
1354 S. Anaheim Blvd
Anaheim, CA 92805

RE: LETTER OF INTENT (LOI)
1354 S. Anaheim Blvd - Anaheim, CA

Dear Diana,

Greenlaw Acquisitions, LLC (“Buyer”), is willing to discuss purchasing, under the following general terms and conditions, from ATN Asset Holding Co LLC (the “Seller”), regarding the certain real property commonly described as **1354 S. Anaheim Blvd, Anaheim, CA 92805 APN: 082-461-39** containing approximately **1.875** acres of land area together with (i) all improvements located thereon (ii) all rights, privileges, easements, benefits or appurtenances thereto and (iii) all personal property, including, without limitation, governmental permits, as built plans and specifications, warranties, rights under recorded instruments, equipment, supplies and other tangible and intangible personal property owned by Seller and either located upon or used or useful in connection therewith (collectively, the “Property”).

Buyer: Greenlaw Acquisitions, LLC or assignee.

Purchase Price: ***\$3,950,000***

Deposits: **Initial Deposit:** Within two (2) days of opening Escrow, Buyer shall deposit ***\$10,000*** with Escrow which shall remain fully refundable until Buyer’s release of contingencies.

Additional Deposits: Upon release of contingencies, Buyer shall deposit an additional ***\$140,000***. All deposits will be non-refundable and applicable to the Purchase Price.



After the earlier of (i) the Buyer's release of the contingencies, or (ii) the end of the Due Diligence Period, all deposits shall become non-refundable.

Due Diligence Period: The Due Diligence period will begin upon the execution of the Purchase and Sale Agreement ("PSA") and expire one hundred fifty (150) days thereafter for physical inspection only, and three (3) days after the City Council approval of the Disposition and Development Agreement (DDA), land use entitlements and the expiration of all appeals periods for all other matters

Condition of Property The Property is being sold "as is, where is" and Seller is making no warranties or representations as to the condition of the Property. Seller does not represent that the Property, in its current condition, is suited for Buyer's use. Buyer must perform its own due diligence to determine if the Property is suited for Buyer's needs. Buyer shall be responsible for any preparation and/or remediation of the Property in order to prepare it for the Buyer's intended use.

Purchase Agreement: The parties will use commercially reasonable efforts to execute a PSA for the Property within thirty (30) days following the date of this fully executed LOI. A mutually executed Purchase Agreement shall be the only binding obligation between the parties. This LOI is not binding upon the parties.

Assignment of the PSA In the event Closing does not occur prior to the eighth (8th) month after Seller commences construction at its replacement facility, Buyer will assign the PSA to the City of Anaheim, obtaining a waiver of all Due Diligence (physical and other) from the City of Anaheim in the Assignment. Buyer shall be obligated to deliver all reports and other due diligence findings on the Property to the City of Anaheim, contemporaneously upon receipt throughout the Due Diligence Period. Standard language on Environmental Conditions, Title and Legal Compliance will be included in the Assignment

Escrow: A mutually agreed escrow company or
First American Title Insurance Company
5 First American Way
Santa Ana, CA 92707
Attn: Ryan Hahn



(714) 250-8394

Title: Seller shall pay the cost of a standard policy of title insurance and transfer taxes (if any). If Buyer chooses to obtain an ALTA policy or any endorsements, Buyer will pay the difference between the standard policy and the ALTA policy and for any endorsements. All other closing costs shall be shared by Buyer and Seller as is customary in the County or recordation.

Title Company: A mutually agreed title company or
First American Title Insurance Company
520 N. Central Avenue
Glendale, CA 91203
Attn: John Jackson
(818) 242-5800 x5582

Close of Escrow: Close of Escrow shall be no later than eight (8) months after Seller commences construction on its replacement facility..

Zoning and Land Use: Any zoning and land use issues shall be resolved by Buyer, at Buyer's expense, however, Seller shall cooperate with Buyer in its efforts if required.

Contingency: The Close of Escrow is contingent upon the Seller securing land from the City of Anaheim upon which to build its replacement facility.

In the event an assignment to the City occurs, Buyer will have no further obligations as to the Seller's property and Buyer deposits will be refunded.

If this Contingency is not met, either party shall have the right to terminate the purchase agreement without any further obligations to or from Buyer and Buyer will be refunded their deposits.

Exchange Cooperation: If requested, each party shall cooperate with the other to



effectuate IRC § 1031 exchange at no cost or expense to the other party.

Costs:

Buyer and Seller shall each be responsible for and bear all of their respective costs and expenses, including without limitation, expenses of their legal counsels, accountants, representatives, and other advisors incurred at any time in connection with this Letter of Intent.

This letter of intent is intended to be an outline to assist us in preparing a definitive Purchase and Sale Agreement. This letter of intent is not intended to contractually bind either of us in any way, nor shall we be legally bound until an agreement in form and content satisfactory to each of us (in our sole and absolute discretion) and our respective counsel is fully executed by us. Neither party shall be entitled to rely upon this letter of intent nor any promises (whether written or oral) that may have been made in connection with the preparation of this letter of intent except to the extent that the same may be contained in a fully executed Purchase and Sale Agreement.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Mitchell'.

Robert G. Mitchell
Greenlaw Acquisitions, LLC

APPROVED AS TO FORM AND CONTENT:

Owner: ATN Asset Holding Co LLC

By: Anaheim Transportation Network, Inc., Manager

By: A handwritten signature in black ink, appearing to be 'Diana Kotler'.

Diana Kotler, Executive Director

Date: 6/12/2019

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ANAHEIM TRANSPORTATION NETWORK PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into this 18th day of June 2019, by and between the Anaheim Transportation Network, a California private non-profit 501(c)(4) corporation ("ATN") and Uprite Construction Corporation, a California corporation ("Consultant"). ATN and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional preconstruction consulting services required by ATN on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional preconstruction consulting services to public clients, is licensed in the State of California, and is familiar with the plans of ATN.

2.2 Project.

ATN desires to engage Consultant to render such professional preconstruction consulting services for the ATN new facility site identification, relocation and build-out project ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to ATN all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional preconstruction consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from the date first set forth above to December 31, 2019 unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. ATN retains Consultant on an independent contractor basis and not as an employee.

Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of ATN and shall at all times be under Consultant's exclusive direction and control. Neither ATN, nor any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with any schedule of Services agreed upon by the Parties ("Schedule"). Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, ATN shall respond to Consultant's submittals in a timely manner. Upon request of ATN, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of ATN.

3.2.4 Substitution of Key Personnel. Consultant has represented to ATN that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of ATN. In the event that ATN and Consultant cannot agree as to the substitution of key personnel, ATN shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: Chris Dellaringa.

3.2.5 ATN's Representative. ATN hereby designates its Executive Director, or her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("ATN's Representative"). ATN's Representative shall have the power to act on behalf of ATN for review and approval of all products submitted by Consultant, and is authorized to act on ATN's behalf and to execute all necessary documents which enlarge the Scope of Work or change the Consultant's total compensation subject to the provisions contained in Section 3.3 of this Agreement. Consultant shall not accept direction or orders from any person other than ATN's Representative or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates Chris Dellaringa President, or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Standard of Care; Performance of Employees. Consultant shall perform all

Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. 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. Finally, 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. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from ATN, 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 sub-consultants who is determined by ATN to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, 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 ATN, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Laws and Regulations; Employee/Labor Certification. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If Consultant performs any work knowing it to be contrary to such laws, rules and regulations, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold ATN, its officials, directors, officers, employees, agents, and volunteers free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.8.1 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. 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.

3.2.8.2 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.9 Insurance.

3.2.9.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to ATN that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to ATN that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for ATN to terminate this Agreement for cause.

3.2.9.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, or the exact equivalent, with limits of not less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 00 01 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than \$1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

~~(D) Professional Liability (Errors & Omissions): Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than \$1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least five (5) years from termination or expiration of this Agreement.~~

3.2.9.3 Insurance Endorsements. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by ATN to add the following provisions to the insurance policies:

(A) Commercial General Liability: (1) Additional Insured: ATN, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement.

Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the terms or purposes of this Agreement. For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon ATN except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability. (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon ATN except ten (10) days shall be allowed for non-payment of premium.

~~(C) Professional Liability (Errors & Omissions): (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon ATN except ten (10) days shall be allowed for non-payment of premium. (2) Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.~~

(D) Workers' Compensation: (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon ATN except ten (10) days shall be allowed for non-payment of premium. (2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against ATN, its officials, officers, employees, agents, and volunteers.

3.2.9.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by ATN, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.9.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of ATN, 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 ATN and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.2.9.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by ATN and shall protect ATN, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.9.7 Verification of Coverage. Consultant shall furnish ATN with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to ATN. The certificates and endorsements for each insurance policy shall

be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by ATN before work commences. ATN reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.9.8 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to transact 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.

3.2.9.9 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance.

3.2.9.10 Additional Insurance Provisions. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by ATN, 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.

3.2.9.11 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding ATN, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name ATN as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, ATN may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement for the lump sum amount as set forth in Exhibit "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed Twenty-Eight Thousand Dollars (\$28,000) without written approval of ATN's Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to ATN a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. ATN shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges thereon in accordance with the schedule of values set forth in Exhibit "A". If ATN disputes any of Consultant's fees, ATN shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by ATN, or included in Exhibit "A" of this Agreement.

3.3.4 Extra Work. At any time during the term of this Agreement, ATN may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by ATN to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from ATN.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of ATN during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. ATN 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 seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to ATN, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, ATN may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

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

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: Uprite Construction
18301 Von Karman Ave Suite 250

Irvine, CA 92612
ATTN: Chris DellAringa President

ATN: Anaheim Transportation Network
2626 E. Katella Ave
Anaheim, CA 92806
ATTN: Diana Kotler

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for ATN to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of ATN, and shall not be used in whole or in substantial part by Consultant on other projects without ATN's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to ATN reproducible copies of all Documents & Data, in a form and amount required by ATN. ATN reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by ATN at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to ATN upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to ATN any such documents pending resolution of the dispute.

3.5.3.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that ATN is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by ATN.

3.5.3.3 Right to Use. ATN shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at ATN's sole risk. If ATN uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of

the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to ATN upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.5.3.4 Indemnification. Consultant shall defend, indemnify and hold ATN, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by ATN of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.3.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of ATN, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use ATN's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of ATN.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Indemnification.

3.5.5.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of ATN's choosing), indemnify and hold ATN, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subconsultants 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 and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, ATN, its officials, officers, employees, agents, or volunteers.

3.5.5.2 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 claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful

misconduct of the Consultant, 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.

3.5.6 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the Services, and supersedes all prior negotiations, understandings or agreements.

3.5.7 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Orange County.

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

3.5.9 ATN's Right to Employ Other Consultants. ATN reserves right to employ other consultants in connection with this Project.

3.5.10 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.11 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of ATN. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.12 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to ATN include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.13 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.14 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.15 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.16 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions

shall continue in full force and effect.

3.5.17 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of ATN. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[SIGNATURES ON NEXT PAGE]

SIGNATURE PAGE TO

PROFESSIONAL SERVICES AGREEMENT BY AND
BETWEEN THE ANAHEIM TRANSPORTATION NETWORK
AND UPRITE CONSTRUCTION CORPORATION
GREENLAW PARTNERS

ANAHEIM TRANSPORTATION NETWORK

Uprite Construction Corporation

By: _____
Diana Kotler
Executive Director

By: _____
Chris DellAringa
President

Date: _____

Date: _____

DRAFT

EXHIBIT "A"
SCOPE OF SERVICES AND COMPENSATION

SCOPE OF WORK:

Provide preconstruction services for the Manchester and Anaheim proposed sites generally described as:

The northern parcel (APN: 082-461-29) at 1213 South Claudina Street.
The southern parcel (APN: 082-461-38) at 1237 South Claudina Street.

[INSERT APNs for Manchester]

To include, but not limited to, the following:

1. Provide preliminary site plan for both sites
2. Provide preliminary building exterior rendering for both sites
3. Provide preliminary floor plans for buildings
4. Meet with City Agencies to get preliminary approval/requirements for each site.
5. Meet with Utility Agencies to determine utility requirements or conditions.
6. Meet with ATN to go over project requirements/details.
7. Review any due diligence received by ATN for either site
8. Provide preliminary Construction budgets for both sites.

Total lump sum cost to perform the above is \$28,000.00

Schedule of Values:

25% due 15 days after execution

75% balance due when plans/rendering and preliminary construction budgets for both site are provided, and upon completion of all other items under the Scope of Work.

NOTES:

The Services are intended to provide preliminary information based on information Consultant obtains to come up with a preliminary construction budget and identify risk.

THE SERVICES DO NOT INCLUDE ANY OF THE FOLLOWING:

1. Survey/topo
2. Final plans of any type
3. Soils reports or any testing
4. Pre-Construction videos/survey
5. Geotechnical/Inspection Services
6. Any work unless specifically included above