

# STRUCTURAL ENGINEERING

## AGREEMENTS

- Elite Engineering Consultant
- Engineering Solutions Service, Inc. (ESS)
- IDS Group
- Martinez Architects, Inc.
- Miyamoto International, Inc.
- Owen Group, Inc.

# Elite Engineering Consultant

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR STRUCTURAL ENGINEERING**

THIS AGREEMENT for Professional Services ("Agreement") is made this 20<sup>th</sup> day of November, 2017 ("Effective Date") by and between the City of Commerce ("City") and **Elite Engineering Consultant** ("Contractor") together sometimes referred to the ("Parties").

**SECTION 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A and incorporated here. Such work shall be provided at the time and place and in the manner specified in Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end three years after the Effective Date. Contractor shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended as provided for in Section 7. The time provided to Contractor to complete the services required by this Agreement shall not affect City's right to terminate the Agreement, as provided for in Section 7.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner including the necessary expertise or knowledge of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons. Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.
- 1.5 Authorization to Perform Services.** Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from City's project representative.

**SECTION 2. COMPENSATION.** City hereby agrees to pay Contractor in accordance with the payment schedule as set forth in Exhibit B, attached hereto and incorporated herein by reference as though set forth in full, based upon work completed, as defined in Exhibit A. In the

event of a conflict between this Agreement and Exhibit A regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

- 2.1 Invoices.** Contractor shall submit invoices monthly during the term of this Agreement, based on the work completed. Invoices shall identify the project being worked on and detail of services performed.
- 2.2 Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 Total Payment.** City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- 2.4 Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.
- 2.5 Payment upon Termination.** In the event that City or Contractor terminates this Agreement pursuant to Section 7, City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**SECTION 3. EQUIPMENT.** Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all supplies and equipment necessary to perform the services required by this Agreement.

**SECTION 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. All insurance coverage and limits provided by Contractor and available or applicable under this

Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

**4.1 Workers' Compensation.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance Shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General Insurance and Automobile Liability Insurance.**

**4.2.1 Commercial General Liability Insurance:** Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage of \$2,000,000 in the general aggregate, for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (per occurrence). Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (per accident). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. City shall have the right to exercise, at the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A-.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with Certificates of Insurance, and upon request, complete certified copies of all policies, including

complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified, mail, return receipt requested, has been given to City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than ten (10) working days after Contractor is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

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

**4.4.6 Variation.** The City Attorney may approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

**4.4.7** No policy required hereunder shall prohibit Contractor from waiving any right with regard to the Indemnities set out below in Section 5.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION**

Contractor shall indemnify, defend with counsel acceptable to City and hold harmless City and its officials, officers, employees, members, agents and authorized volunteers from and against any and all losses, liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, damages and expenses of any kind, whether actual or threatened (including but not limited to attorneys' fees and costs, court costs, interest defense costs, and expert witness fees) where the same arise out of, are a consequence of or are in any way attributable to, in whole or in part, the performance of this Agreement (or the failure to perform) by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor. Such indemnification, defense and hold harmless extend to Contractor's provision, use, transport and storage of hazardous materials, as those commonly are defined under state and federal laws and regulations.

The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property or violation of law arises wholly from the negligence or willful misconduct of City or its officers, employees, agents or authorized volunteers and (2) the actions of Contractor or its employees, subcontractors or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.



## **SECTION 6. LEGAL REQUIREMENTS.**

- 6.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 **Compliance with Applicable Laws.** Contractor and any subcontractor shall comply with all applicable local, state and federal laws and regulations applicable to the performance of the work hereunder.
- 6.3 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

## **SECTION 7. TERMINATION AND MODIFICATION.**

- 7.1 **Termination.** City and Contractor hereby agree that this Agreement may be cancelled upon thirty (30) days written notice.
- In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.
- 7.2 **Extension.** Both parties agree that extending the Agreement beyond that provided for in Subsection 1.1 may be in the best interest of all concerned. Any such extension shall require a written amendment to this Agreement, as provided for herein. City and Contractor understand and agree that, if both parties agree to such an extension, all terms and conditions of the original Agreement shall remain the same, and extended to the date provided for in said amendment.
- 7.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.4 **Survival.** All obligations arising prior to the termination of this Agreement and

all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

**7.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all the following:

**7.5.1** Immediately terminate the Agreement;

**7.5.2** Retain the documents, and any other work product prepared by Contractor pursuant to this Agreement;

**7.5.3** Retain a different Contractor to complete the work described in Exhibit A not finished by Contractor; or

**7.5.4** Charge Contractor the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **SECTION 8. KEEPING AND STATUS OF RECORDS.**

**8.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon termination of the Agreement.

**8.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

**8.3 Inspection and Audit of Records.** Any records or documents that Section 8.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **SECTION 9. UNAUTHROIZED ALIENS.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **SECTION 10. CONFLICTS OF INTEREST.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

## **SECTION 11. MISCELLANEOUS PROVISIONS.**

- 11.1 Assignment.** The expertise and experience of Contractor are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor under this Agreement. In recognition of that interest, Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.
- 11.2 Attorneys' Fees.** If either party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 11.3 Venue.** In the event that either party brings any action against the other under this

Agreement, the parties agree that trial of such action shall be vested exclusively in Los Angeles County.

- 11.4 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.5 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.6 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and permitted assigns of the parties.
- 11.7 Contractor Representative.** All matters under this Agreement shall be handled for Contractor by **Tenjen J. Chou.**
- 11.8 City Contract Administration.** This Agreement shall be administered by Maryam Babaki, Director of Public Works and Development Services, or her designee ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 11.9 Notices.** Any written notice to Contractor shall be sent to:
- Tenjen J. Chou**  
Principal  
Elite Engineering Consultant  
1274 Center Court Drive, Suite 212  
Covina, CA 91724
- Any written notice to City shall be sent to:
- Maryam Babaki  
Director of Public Works and Development Services  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040
- 11.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE

CONTRACTOR

\_\_\_\_\_  
Oralia Y. Rebollo, Mayor

\_\_\_\_\_  
  
Tenjen J. Chou, Principal

Attest:

\_\_\_\_\_  
Lena Shumway, City Clerk

Approved as to Form:

\_\_\_\_\_  
Noel Tapia, City Attorney



ELITE  
Engineering  
Consultant

1274 Center Court Drive, Suite 212  
Covina, CA 91724  
T 626.859.7707  
F 626.859.7721

## **EXHIBIT "A"**

### **SCOPE OF SERVICES ON-CALL STRUCTURAL ENGINEERING SERVICES CITY OF COMMERCE**

Elite Engineering Consultant (EEC) is to provide the City of Commerce the On-Call Structural Engineering services.

The services are commonly carried out via three stages, 1) Conceptual Design, 2) Construction Documents, and 2) Construction Supports

#### **STRUCTURAL DESIGN**

ELITE Engineering Consultant (EEC) will work with the Design Team design starting the project with the conceptual design and finish with the construction documents which include the construction plans, the project specifications and the material quantity take-off and the engineering cost estimate.

In the project conceptual design stage, EEC will work closely with the project lead, either the project architect or the project civil engineer on design concepts and structural system or structural type to meet the project goal and intent of the City. With the approval of the conceptual design by the City, EEC will carry out the structural design upon coordination with the Design Team of all disciplines from the schematic to the final construction documents. The progress design documents will be prepared by EEC and submitted to the City for review and comments. The adjustment of design will be made in accordance with review comments and incorporated in the next round of submittal for review until the complete satisfaction by the City in the final construction documents. The design will be carried out to comply with the Building Codes, the applicable Codes and City Ordinances. Project specifications. Quantity take-off and cost estimates will be prepared with the progress submittal upon the City's request.

The tasks that are performed by EEC in reference to the aforementioned include

- Perform coordination and attend meetings
- Perform field observations
- Prepare structural analysis and design with engineering calculations
- Prepare construction plans
- Prepare project specifications
- Provide quantity take-off and engineering cost estimate
- Submit construction documents for review and prepare responses to review comments upon requirements by the City and the Building Department

### **CONSTRUCTION SUPPORTS**

EEC will provide assistances in project bidding and construction supports throughout the construction to completion of the project with tasks that include

- Attend pre-bid meetings
- Provide responses to RFI associated with the bidding process
- Attend routine construction meetings
- Conduct observations and prepare observation reports
- Provide RFI responses
- Perform reviews of submittals and shop drawings
- Review field test reports by an independent laboratory
- Perform reviews of COR and Bulletin
- Assist in project closeouts

### **ADDITIONAL SRVICES**

Upon request, EEC will provide review and assessment of the existing building and facility that are in question on their integrity, performance and damage, etc.

**EXHIBIT "B"**

**Fee Schedule**  
By Employee Classification  
**On-Call Structural Engineering Services**  
**City of Commerce**  
Effective 2017

**A.** These prices begin on the date of the full execution of the contract. Prices may only be adjusted per the County's Cost of Living Adjustment (COLA) policy.

**B.** Rates:

Classification	Hourly Rate
Principal/Project Engineer (P.E., Ph.D.)	\$150.00
Project Engineer (S.E., P.E.)	\$150.00
Design Engineer (P.E. or EIT)	\$110.00
Senior CADD Designer	\$ 81.00
Administrative Assistance	\$ 62.50

**C.** Contact Information:  
T. J. Chou, Principal  
Email: [tj.chou@eliteec.com](mailto:tj.chou@eliteec.com)



**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

CITY OF COMMERCE CITY HALL

2535 Commerce Way

Commerce, CA 90040

Applicants and/or existing on-call consultants shall provide the information requested herein below, with the ~~notarized~~ certification requested at the end of this document, to the City of Commerce ("City"). **Failure to fully and accurately provide the requested ~~notarized~~ certification or information to the City may result in a determination that the applicant and/or existing on-call consultant is not responsible, nonresponsive and/or that their application is incomplete.**

**I. Criminal Conviction(s):**

For the five (5) years preceding the date of when this document is submitted to the City, identify on attached page(s) any criminal conviction in any jurisdiction of the United States for a violation of law arising out of the performance of a contract (1) by the applicant and/or existing on-call consultant submitting this supplemental information to the City, including any person who is an officer of, or in a management position with, or has an ownership interest in the entity which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, or (2) by the person(s) performing the work described in the original, or subsequent Bid/Proposal/statement of Qualifications, including any such person when they were an officer, manager, owner, or responsible managing employee of any other consulting company other than the applicant and/or existing on-call consultant submitting this supplemental questionnaire to the City.

Provide on an attached page, and label "Criminal Convictions Information":

- (1) The date of conviction;
- (2) The name and court case identification number;
- (3) The identity of the law violated;
- (4) The identity of the prosecuting agency;
- (5) The contract or project involved;
- (6) The punishment imposed; and
- (7) Any exculpatory information of which the City should be aware.

**II. Non-Collusion Declaration:**

I am the party submitting a proposal for the award of an On-Call Professional Services Agreement, and/or that submitted a Statement of Qualifications to provide said services, for the City. I hereby declare, on behalf of ELITE Engineering Consultant, and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or

indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the terms of the proposal, including the amount to paid to the City in the form of consulting fees, permit fees and other forms of compensation, or to fix any overhead, profit or cost element of the proposal, or of that of any other proposer, or to secure any advantage against the public body awarding the agreement to anyone interested in being awarded professional services agreements; that all statements contained in the proposal/statement of qualifications are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal/statement of qualifications or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization or to any member or agent thereof to effectuate a collusive or sham proposal.

I further declare, on behalf of ELITE Engineering Consultant, and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that we have individually, and as an organization, not been subject of an open, pending or past civil or criminal investigation for the actions discussed herein; and/or that we have not been sued civilly or prosecuted criminally for the actions discussed herein.

### **III. Civil Litigation History:**

For the five (5) preceding years preceding the date of when this document is submitted to the City, identify on attached page(s) any civil litigation arising out of the performance of a professional services/on-call-consulting contract within the State of California in which any of the following was a named plaintiff or defendant in a lawsuit brought by or against the entity soliciting Bid/Proposal/Statement of Qualifications: the applicant submitting the instant Bid/Proposal/Statement of Qualifications, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid/Proposal/Statement of Qualifications. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices. Provide on an attached page(s) labeled "Civil Litigation History Information:"

- (1) The name and court case identification number of each case,
- (2) The jurisdiction in which it was filed; and
- (3) The outcome of the litigation, e.g., whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

### **IV. False Claims:**

"False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq. In submitting a Bid/Proposal/Statement of Qualifications to the City of I, hereby certify that neither the applicant nor any person who is an officer of, in a managing position with, or has an ownership interest in the applicant has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.


If there has been a determination that the applicant, or any individual associated with the

applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (1) Date of determination of violations;
  - (2) Identity of tribunal or court and case name or number;
  - (3) Government contract or project involved;
  - (4) Government agency involved (local, state and/or federal);
  - (5) Amount of fine(s) imposed; and
  - (6) Any exculpatory information.
- 

Declaration: I declare under penalty of perjury that the above information, and any information attached and incorporated herein, is true and correct.

Executed this 19<sup>th</sup> day of March, 2018 at Corina, CA  
(month and year) (city and state)

by   
(signature of owner, officer, manager, or licensee responsible for submission of  
Bid/Proposal/Statement of Qualifications)

[NOTARY ACKNOWLEDGEMENT TO FOLLOW]

STATE OF CALIFORNIA     )  
  )  
SS: COUNTY OF LOS        )  
ANGELES                    )

Subscribed and sworn to (or affirmed) before me this 19<sup>th</sup> day of March, 2018.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL OF NOTARY)



Angelica Landicho Cruz  
(Signature of Notary)

Angelica Landicho Cruz  
(Typed Name of Notary)

END OF DOCUMENT

# Engineering Solutions Service, Inc. (ESS)

## **PROFESSIONAL SERVICES AGREEMENT ON-CALL FOR STRUCTURAL ENGINEERING**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and Engineering Solutions Services, Inc. ("Contractor") together sometimes referred to the ("Parties").

**SECTION 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A and incorporated here. Such work shall be provided at the time and place and in the manner specified in Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end three years after the Effective Date. Contractor shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended as provided for in Section 7. The time provided to Contractor to complete the services required by this Agreement shall not affect City's right to terminate the Agreement, as provided for in Section 7.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner including the necessary expertise or knowledge of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons. Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.
- 1.5 Authorization to Perform Services.** Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from City's project representative.

**SECTION 2. COMPENSATION.** City hereby agrees to pay Contractor in accordance with the payment schedule as set forth in Exhibit B, attached hereto and incorporated herein by reference as though set forth in full, based upon work completed, as defined in Exhibit A. In the

event of a conflict between this Agreement and Exhibit A regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

- 2.1 Invoices.** Contractor shall submit invoices monthly during the term of this Agreement, based on the work completed. Invoices shall identify the project being worked on and detail of services performed.
- 2.2 Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 Total Payment.** City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- 2.4 Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.
- 2.5 Payment upon Termination.** In the event that City or Contractor terminates this Agreement pursuant to Section 7, City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**SECTION 3. EQUIPMENT.** Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all supplies and equipment necessary to perform the services required by this Agreement.

**SECTION 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. All insurance coverage and limits provided by Contractor and available or applicable under this

Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

**4.1 Workers' Compensation.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance Shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General Insurance and Automobile Liability Insurance.**

**4.2.1 Commercial General Liability Insurance:** Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage of \$2,000,000 in the general aggregate, for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (per occurrence). Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (per accident). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:



- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. City shall have the right to exercise, at the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A-.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with Certificates of Insurance, and upon request, complete certified copies of all policies, including

complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified, mail, return receipt requested, has been given to City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than ten (10) working days after Contractor is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

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

**4.4.6 Variation.** The City Attorney may approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

**4.4.7** No policy required hereunder shall prohibit Contractor from waiving any right with regard to the Indemnities set out below in Section 5.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION**

Contractor shall indemnify, defend with counsel acceptable to City and hold harmless City and its officials, officers, employees, members, agents and authorized volunteers from and against any and all losses, liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, damages and expenses of any kind, whether actual or threatened (including but not limited to attorneys' fees and costs, court costs, interest defense costs, and expert witness fees) where the same arise out of, are a consequence of or are in any way attributable to, in whole or in part, the performance of this Agreement (or the failure to perform) by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor. Such indemnification, defense and hold harmless extend to Contractor's provision, use, transport and storage of hazardous materials, as those commonly are defined under state and federal laws and regulations.

The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property or violation of law arises wholly from the negligence or willful misconduct of City or its officers, employees, agents or authorized volunteers and (2) the actions of Contractor or its employees, subcontractors or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

## **SECTION 6. LEGAL REQUIREMENTS.**

- 6.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 **Compliance with Applicable Laws.** Contractor and any subcontractor shall comply with all applicable local, state and federal laws and regulations applicable to the performance of the work hereunder.
- 6.3 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

## **SECTION 7. TERMINATION AND MODIFICATION.**

- 7.1 **Termination.** City and Contractor hereby agree that this Agreement may be cancelled upon thirty (30) days written notice.
- In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.
- 7.2 **Extension.** Both parties agree that extending the Agreement beyond that provided for in Subsection 1.1 may be in the best interest of all concerned. Any such extension shall require a written amendment to this Agreement, as provided for herein. City and Contractor understand and agree that, if both parties agree to such an extension, all terms and conditions of the original Agreement shall remain the same, and extended to the date provided for in said amendment.
- 7.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.4 **Survival.** All obligations arising prior to the termination of this Agreement and

all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

- 7.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all the following:

- 7.5.1** Immediately terminate the Agreement;
- 7.5.2** Retain the documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 7.5.3** Retain a different Contractor to complete the work described in Exhibit A not finished by Contractor; or
- 7.5.4** Charge Contractor the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **SECTION 8. KEEPING AND STATUS OF RECORDS.**

- 8.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon termination of the Agreement.
- 8.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 8.3 Inspection and Audit of Records.** Any records or documents that Section 8.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **SECTION 9. UNAUTHROIZED ALIENS.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **SECTION 10. CONFLICTS OF INTEREST.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

## **SECTION 11. MISCELLANEOUS PROVISIONS.**

- 11.1 Assignment.** The expertise and experience of Contractor are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor under this Agreement. In recognition of that interest, Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.
- 11.2 Attorneys' Fees.** If either party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 11.3 Venue.** In the event that either party brings any action against the other under this

Agreement, the parties agree that trial of such action shall be vested exclusively in Los Angeles County.

- 11.4 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.5 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.6 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and permitted assigns of the parties.
- 11.7 Contractor Representative.** All matters under this Agreement shall be handled for Contractor by Sudi Shoja.
- 11.8 City Contract Administration.** This Agreement shall be administered by Maryam Babaki, Director of Public Works and Development Services, or her designee ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 11.9 Notices.** Any written notice to Contractor shall be sent to:
- Sudi Shoja  
Principal  
Engineering Solutions Services, Inc.  
2182 Dupont Drive, Suite 201  
Irvine, CA 92612
- Any written notice to City shall be sent to:
- Maryam Babaki  
Director of Public Works and Development Services  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040
- 11.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

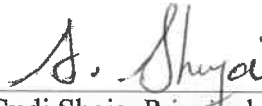
**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE

CONTRACTOR

\_\_\_\_\_  
Oralia Y. Rebollo, Mayor

\_\_\_\_\_  
  
Sudi Shoja, Principal

Attest:

\_\_\_\_\_  
Lena Shumway, City Clerk

Approved as to Form:

\_\_\_\_\_  
Eduardo Olivo, City Attorney



### Scope of Work:

Engineering Solutions Services (ESS) will provide Building and Facility Assessment and Design services for the City of Commerce Public Works Agency, according to the provisions of the Request For Proposal issued in August 5, 2015 and the ESS proposal submitted prior to the due date of September 4, 2015.

The Scope of Services will include but not limited to:

Assessment of buildings for structural, architectural, mechanical, plumbing, electrical, energy efficiency and ADA compliance, drafting, cost estimating, building and tenant improvement plan check, project management and construction observation and support services as directed by the Public Works Director. ESS is readily available for assessment and/or design of existing and/or new buildings/facilities.

**EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #1)** Page 1 of 2**ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS**

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Consultant \_\_\_\_\_ Contract No. \_\_\_\_\_ Date \_\_\_\_\_

**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
structural engineer		1	\$ 60.00	\$ 60.00
project engineer		1	\$ 50.00	\$ 50.00
CAAD		1	\$ 35.00	\$ 35.00
Admin Assistant		1	\$ 25.00	\$ 25.00
Architect		1	\$ 60.00	\$ 60.00

**LABOR COSTS**

- a) Subtotal Direct Labor Costs \$ 230.00  
b) Anticipated Salary Increases (see page 2 for sample) \$ 0.00  
c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] \$ 230.00

**FRINGE BENEFITS**

- d) Fringe Benefits (Rate: 55.00% )  
e) **TOTAL FRINGE BENEFITS** [(c) x (d)] \$ 126.50

**INDIRECT COSTS**

- f) Overhead (Rate: 110.00% )  
g) Overhead [(c) x (f)] \$ 253.00  
h) General and Administrative (Rate: 0.00% )  
i) Gen & Admin [(c) x (h)] \$ 0.00  
j) **TOTAL INDIRECT COSTS** [(c) + (g) + (i)] \$ 313.50

**FEE (Profit)**

- q) (Rate: 10.00% )  
k) **TOTAL FIXED PROFIT** [(c) + (j)] x (q) \$ 54.35

**OTHER DIRECT COSTS (ODC)**

- | Description   | Unit(s) | Unit Cost | Total   |
|---|---------|-----------|---------|
| l) Travel/Mileage Costs (supported by consultant actual costs)  | 1       | \$ 0.57   | \$ 0.57 |
| m) Equipment Rental and Supplies (itemize)  |         | \$        | \$ 0.00 |
| n) Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc.   |         | \$        | \$ 0.00 |
| o) Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant) |         | \$        | \$ 0.00 |
- p) **TOTAL OTHER DIRECT COSTS** [(l) + (m) + (n) + (o)] \$ 0.57

**TOTAL COST** [(c) + (j) + (k) + (p)] \$ 556.12**NOTES:**

- Employees subject to prevailing wage requirements to be marked with an \*.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost.
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead rate.

**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

2018 APR 12 PM 4:21

CITY OF COMMERCE CITY HALL  
2535 Commerce Way  
Commerce, CA 90040

Applicants and/or existing on-call consultants shall provide the information requested herein below, with the ~~notarized~~ certification requested at the end of this document, to the City of Commerce ("City"). **Failure to fully and accurately provide the requested notarized certification or information to the City may result in a determination that the applicant and/or existing on-call consultant is not responsible, nonresponsive and/or that their application is incomplete.**

**I. Criminal Conviction(s):**

For the five (5) years preceding the date of when this document is submitted to the City, identify on attached page(s) any criminal conviction in any jurisdiction of the United States for a violation of law arising out of the performance of a contract (1) by the applicant and/or existing on-call consultant submitting this supplemental information to the City, including any person who is an officer of, or in a management position with, or has an ownership interest in the entity which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, or (2) by the person(s) performing the work described in the original, or subsequent Bid/Proposal/statement of Qualifications, including any such person when they were an officer, manager, owner, or responsible managing employee of any other consulting company other than the applicant and/or existing on-call consultant submitting this supplemental questionnaire to the City.

Provide on an attached page, and label "Criminal Convictions Information":

- (1) The date of conviction;
- (2) The name and court case identification number;
- (3) The identity of the law violated;
- (4) The identity of the prosecuting agency;
- (5) The contract or project involved;
- (6) The punishment imposed; and
- (7) Any exculpatory information of which the City should be aware.

**II. Non-Collusion Declaration:**

I am the party submitting a proposal for the award of an On-Call Professional Services Agreement, and/or that submitted a Statement of Qualifications to provide said services, for the City. I hereby declare, on behalf of Engineering Solutions Services and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or

indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the terms of the proposal, including the amount to be paid to the City in the form of consulting fees, permit fees and other forms of compensation, or to fix any overhead, profit or cost element of the proposal, or of that of any other proposer, or to secure any advantage against the public body awarding the agreement to anyone interested in being awarded professional services agreements; that all statements contained in the proposal/statement of qualifications are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal/statement of qualifications or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization or to any member or agent thereof to effectuate a collusive or sham proposal.

I further declare, on behalf of *Engineering Solutions Services* and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that we have individually, and as an organization, not been subject of an open, pending or past civil or criminal investigation for the actions discussed herein; and/or that we have not been sued civilly or prosecuted criminally for the actions discussed herein.

### **III. Civil Litigation History:**

For the five (5) preceding years preceding the date of when this document is submitted to the City, identify on attached page(s) any civil litigation arising out of the performance of a professional services/on-call-consulting contract within the State of California in which any of the following was a named plaintiff or defendant in a lawsuit brought by or against the entity soliciting Bid/Proposal/Statement of Qualifications: the applicant submitting the instant Bid/Proposal/Statement of Qualifications, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid/Proposal/Statement of Qualifications. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices. Provide on an attached page(s) labeled "Civil Litigation History Information:"

- (1) The name and court case identification number of each case,
- (2) The jurisdiction in which it was filed; and
- (3) The outcome of the litigation, e.g., whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

### **IV. False Claims:**

"False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq. In submitting a Bid/Proposal/Statement of Qualifications to the City of I, hereby certify that neither the applicant nor any person who is an officer of, in a managing position with, or has an ownership interest in the applicant has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.

If there has been a determination that the applicant, or any individual associated with the

applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (1) Date of determination of violations;
  - (2) Identity of tribunal or court and case name or number;
  - (3) Government contract or project involved;
  - (4) Government agency involved (local, state and/or federal);
  - (5) Amount of fine(s) imposed; and
  - (6) Any exculpatory information.
- 

Declaration: I declare under penalty of perjury that the above information, and any information attached and incorporated herein, is true and correct.

Executed this 9 day of April, 2018 at Lake Forest, CA  
(month and year) (city and state)

by Sadeh Shja  
(signature of owner, officer, manager, or licensee responsible for submission of  
Bid/Proposal/Statement of Qualifications)

[NOTARY ACKNOWLEDGEMENT TO FOLLOW]



IDS Group

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR STRUCTURAL ENGINEERING**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and **IDS Group** ("Contractor") together sometimes referred to the ("Parties").

**SECTION 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A and incorporated here. Such work shall be provided at the time and place and in the manner specified in Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end three years after the Effective Date. Contractor shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended as provided for in Section 7. The time provided to Contractor to complete the services required by this Agreement shall not affect City's right to terminate the Agreement, as provided for in Section 7.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner including the necessary expertise or knowledge of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons. Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.
- 1.5 Authorization to Perform Services.** Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from City's project representative.

**SECTION 2. COMPENSATION.** City hereby agrees to pay Contractor in accordance with the payment schedule as set forth in Exhibit B, attached hereto and incorporated herein by reference as though set forth in full, based upon work completed, as defined in Exhibit A. In the event of a conflict between this Agreement and Exhibit A regarding the amount of



compensation, this Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

- 2.1 **Invoices.** Contractor shall submit invoices monthly during the term of this Agreement, based on the work completed. Invoices shall identify the project being worked on and detail of services performed.
- 2.2 **Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 **Total Payment.** City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- 2.4 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.
- 2.5 **Payment upon Termination.** In the event that City or Contractor terminates this Agreement pursuant to Section 7, City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**SECTION 3. EQUIPMENT.** Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all supplies and equipment necessary to perform the services required by this Agreement.

**SECTION 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. All insurance coverage and limits provided by Contractor and available or applicable under this

Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

- 4.1 Workers' Compensation.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance Shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General Insurance and Automobile Liability Insurance.**

- 4.2.1 Commercial General Liability Insurance:** Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage of \$2,000,000 in the general aggregate, for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.
- 4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (per occurrence). Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (per accident). No endorsement shall be attached limiting the coverage.
- 4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. City shall have the right to exercise, at the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A-.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with Certificates of Insurance, and upon request, complete certified copies of all policies, including

complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified, mail, return receipt requested, has been given to City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than ten (10) working days after Contractor is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

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

**4.4.6 Variation.** The City Attorney may approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

**4.4.7** No policy required hereunder shall prohibit Contractor from waiving any right with regard to the Indemnities set out below in Section 5.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION**

Contractor shall indemnify, defend with counsel acceptable to City and hold harmless City and its officials, officers, employees, members, agents and authorized volunteers from and against any and all losses, liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, damages and expenses of any kind, whether actual or threatened (including but not limited to attorneys' fees and costs, court costs, interest defense costs, and expert witness fees) where the same arise out of, are a consequence of or are in any way attributable to, in whole or in part, the performance of this Agreement (or the failure to perform) by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor. Such indemnification, defense and hold harmless extend to Contractor's provision, use, transport and storage of hazardous materials, as those commonly are defined under state and federal laws and regulations.

The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property or violation of law arises wholly from the negligence or willful misconduct of City or its officers, employees, agents or authorized volunteers and (2) the actions of Contractor or its employees, subcontractors or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

## **SECTION 6. LEGAL REQUIREMENTS.**

- 6.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 **Compliance with Applicable Laws.** Contractor and any subcontractor shall comply with all applicable local, state and federal laws and regulations applicable to the performance of the work hereunder.
- 6.3 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

## **SECTION 7. TERMINATION AND MODIFICATION.**

- 7.1 **Termination.** City and Contractor hereby agree that this Agreement may be cancelled upon thirty (30) days written notice.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.

- 7.2 **Extension.** Both parties agree that extending the Agreement beyond that provided for in Subsection 1.1 may be in the best interest of all concerned. Any such extension shall require a written amendment to this Agreement, as provided for herein. City and Contractor understand and agree that, if both parties agree to such an extension, all terms and conditions of the original Agreement shall remain the same, and extended to the date provided for in said amendment.
- 7.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.4 **Survival.** All obligations arising prior to the termination of this Agreement and

all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

- 7.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all the following:

- 7.5.1** Immediately terminate the Agreement;
- 7.5.2** Retain the documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 7.5.3** Retain a different Contractor to complete the work described in Exhibit A not finished by Contractor; or
- 7.5.4** Charge Contractor the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **SECTION 8. KEEPING AND STATUS OF RECORDS.**

- 8.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon termination of the Agreement.
- 8.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 8.3 Inspection and Audit of Records.** Any records or documents that Section 8.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **SECTION 9. UNAUTHROIZED ALIENS.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **SECTION 10. CONFLICTS OF INTEREST.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

## **SECTION 11. MISCELLANEOUS PROVISIONS.**

- 11.1 Assignment.** The expertise and experience of Contractor are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor under this Agreement. In recognition of that interest, Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.
- 11.2 Attorneys' Fees.** If either party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 11.3 Venue.** In the event that either party brings any action against the other under this



Agreement, the parties agree that trial of such action shall be vested exclusively in Los Angeles County.

- 11.4 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.5 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.6 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and permitted assigns of the parties.
- 11.7 **Contractor Representative.** All matters under this Agreement shall be handled for Contractor by Said Hilmy.
- 11.8 **City Contract Administration.** This Agreement shall be administered by Maryam Babaki, Director of Public Works and Development Services, or her designee ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 11.9 **Notices.** Any written notice to Contractor shall be sent to:
- Said Hilmy  
President  
IDS Group  
1 Peters Canyon Road, Suite 130  
Irvine, CA 92606
- Any written notice to City shall be sent to:
- Maryam Babaki  
Director of Public Works and Development Services  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040
- 11.10 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE

CONTRACTOR

\_\_\_\_\_  
Oralia Y. Rebollo, Mayor

\_\_\_\_\_  
  
Said Hilmy, President

Attest:

\_\_\_\_\_  
Lena Shumway, City Clerk

Approved as to Form:

\_\_\_\_\_  
Eduardo Olivo, City Attorney

## Exhibit A – Scope of Services

### **Architecture**

Our architectural services involve:

- Park Design
- New design of Buildings
- Building Assessments
- Alterations and Modifications
- Accessibility Studies/ ADA Compliance and design, fire and life safety
- Code Review
- Space Planning
- Remodeling
- Repair of damaged and deteriorated structures, and expansions and additions to existing facilities
- Condition Assessment

### **Structural**

- Structural design services
- Structural engineering evaluation and structural modifications
- Structural and seismic assessment
- Peer and plan review
- Seismic risk mitigation and retrofit
- Condition assessment
- Construction administration/ support

### **Building and Facilities Assessment and Design**

- Forensic investigation
- Building evaluations and modifications
- Risk assessment and reduction
- Architectural design services
- Structural design services
- Mechanical, electrical, and plumbing design services
- Civil design services
- Constructability and design review
- Program and construction management

### **Civil Engineering:**

- Civil Engineering Design
- Surveying
- Bike Trail Design
- Street design
- Utility upgrade
- Parking Lots design and upgrade
- ADA upgrade
- Transformer and Emergency General upgrade
- Plumbing Design
- Street Lighting
- Bike Trail Design
- Street design

### **Mechanical, Electrical, and Plumbing**

- HVAC Engineering Design
- Central Plants

## EXHIBIT B - COST PROPOSAL FOR ON-CALL A/E SERVICES

Consultant or Subconsultant:

IDS Group, Inc.

### BILLING INFORMATION

Name/Job Title/ Classification	Hourly Rates
<b>Architecture</b>	
John Silber/ Principal Architect /AIA	\$ 184.00
Michael Cecconi/Project Manager/ RA	\$ 163.00
Robert Freeman/ Architect/ RA	\$ 142.00
Song Brandner /Architect/ RA	\$ 131.00
Andrew Chan /Architect/ LEED AP	\$ 131.00
Chris Cloud Bradley/Architect/ AIA, LEED AP	\$ 142.00
Chris Martin/Designer/ MA	\$ 116.00
Patrick Mobini/BIM, CAD/ MA	\$ 95.00
Minh Hoang/BIM, CAD/ MA	\$ 84.00
Natasha Morozov/BIM , CAD/ LEED GA	\$ 84.00
<b>Structural Engineering Services</b>	
Said Hilmy, PhD/Principal-in-Charge/PE,SE, LEED AP	\$ 184.00
Rami Elhassan, PhD/Quality Assurance Manager/PE, SE	\$ 173.00
Elwood Smietana/Project Manager/PE, SE	\$ 163.00
Steve Uthoff/Senior Structural Engineer/PE, SE	\$ 142.00
Jaime Rosenbach/Senior Structural Engineer/PE, SE	\$ 142.00
David Pomerleau/Senior Structural Engineer/PE, SE	\$ 142.00
Victor Mercado/Structural Engineer/PE, SE	\$ 131.00
Doug Francisco/Senior Structural Engineer/PE, SE	\$ 142.00
Yangbo Chen/Structural Engineer/PE, SE	\$ 131.00
Matt Kani/Structural Engineer/PE, SE	\$ 131.00
<b>Building and Facilities Assessment and Design</b>	
Said Hilmy, PhD/Principal-in-Charge/PE,SE, LEED AP	\$ 184.00
Rami Elhassan, PhD/Quality Assurance Manager/PE, SE	\$ 173.00
John Silber/ Project Manager/AIA	\$ 184.00
David Pomerleau/Deputy Project Manager/PE, SE	\$ 163.00
Michael Cecconi/Architect/ RA	\$ 142.00
Robert Freema/Architect/ RA	\$ 131.00
Song Brandner/Architect/ RA	\$ 131.00
Steve Uthoff/Senior Structural Engineer/PE, SE	\$ 142.00
Doug Francisco/Senior Structural Engineer/PE, SE	\$ 142.00
Matt Kani/Structural Engineer/PE, SE	\$ 131.00
Peter Gambino/ Principal-in-Charge, Civil/ PE, PLS, QSD	\$ 184.00
Thom Lambertson/ Project Manager, Civil/ PE	\$ 163.00
Tejal M. Gandhi/Civil Engineer/PE, QSD, QSP	\$ 142.00
Hubert Thomas Bui/Civil Lead Designer/ PE,QSD,QSP	\$ 131.00
Sam Wheeler/ Civil/ EIT	\$ 100.00
Tep Kalambaheti/Project Manager, Mechanical Engineer/ PE, LEED AP BD+C	\$ 163.00
Maysoon Sheabaan/ Senior Mechanical Engineer PhD, PE, LEED BD+C	\$ 163.00
Yat W. Lee/ Mechanical Engineer/PE	\$ 142.00
Ray Mayuga/ Mechanical Design Engineer/ BA	\$ 131.00
Alfredo Adame/ Senior Plumbing Designer/CPIE	\$ 131.00
Robin O'Neil/ Principal-in-Charge, MEP/ PE	\$ 184.00
Hussein H. Boudiab/ Project Manager, Electrical Engineer/ PE	\$ 173.00
Medel Bartolome/ Senior Electrical Engineer/PE	\$ 142.00
Bob N. Kramer/ Electrical Project Engineer/ BA	\$ 142.00
Word Processing	\$ 75.00
Administration	\$ 53.00

**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

CITY OF COMMERCE CITY HALL  
2535 Commerce Way  
Commerce, CA 90040

Applicants and/or existing on-call consultants shall provide the information requested herein below, with the ~~notarized~~ certification requested at the end of this document, to the City of Commerce ("City"). **Failure to fully and accurately provide the requested ~~notarized~~ certification or information to the City may result in a determination that the applicant and/or existing on-call consultant is not responsible, nonresponsive and/or that their application is incomplete.**

**I. Criminal Conviction(s):**

For the five (5) years preceding the date of when this document is submitted to the City, identify on attached page(s) any criminal conviction in any jurisdiction of the United States for a violation of law arising out of the performance of a contract (1) by the applicant and/or existing on-call consultant submitting this supplemental information to the City, including any person who is an officer of, or in a management position with, or has an ownership interest in the entity which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, or (2) by the person(s) performing the work described in the original, or subsequent Bid/Proposal/statement of Qualifications, including any such person when they were an officer, manager, owner, or responsible managing employee of any other consulting company other than the applicant and/or existing on-call consultant submitting this supplemental questionnaire to the City.

Provide on an attached page, and label "Criminal Convictions Information":

- (1) The date of conviction;
- (2) The name and court case identification number;
- (3) The identity of the law violated;
- (4) The identity of the prosecuting agency;
- (5) The contract or project involved;
- (6) The punishment imposed; and
- (7) Any exculpatory information of which the City should be aware.

**II. Non-Collusion Declaration:**

I am the party submitting a proposal for the award of an On-Call Professional Services Agreement, and/or that submitted a Statement of Qualifications to provide said services, for the City. I hereby declare, on behalf of CLDS Group, and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or

indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the terms of the proposal, including the amount to paid to the City in the form of consulting fees, permit fees and other forms of compensation, or to fix any overhead, profit or cost element of the proposal, or of that of any other proposer, or to secure any advantage against the public body awarding the agreement to anyone interested in being awarded professional services agreements; that all statements contained in the proposal/statement of qualifications are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal/statement of qualifications or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization or to any member or agent thereof to effectuate a collusive or sham proposal.

I further declare, on behalf of El D S Group, and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that we have individually, and as an organization, not been subject of an open, pending or past civil or criminal investigation for the actions discussed herein; and/or that we have not been sued civilly or prosecuted criminally for the actions discussed herein.

### **III. Civil Litigation History:**

For the five (5) preceding years preceding the date of when this document is submitted to the City, identify on attached page(s) any civil litigation arising out of the performance of a professional services/on-call-consulting contract within the State of California in which any of the following was a named plaintiff or defendant in a lawsuit brought by or against the entity soliciting Bid/Proposal/Statement of Qualifications: the applicant submitting the instant Bid/Proposal/Statement of Qualifications, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid/Proposal/Statement of Qualifications. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices. Provide on an attached page(s) labeled "Civil Litigation History Information:"

- (1) The name and court case identification number of each case,
- (2) The jurisdiction in which it was filed; and
- (3) The outcome of the litigation, e.g., whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

### **IV. False Claims:**

"False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq. In submitting a Bid/Proposal/Statement of Qualifications to the City of I, hereby certify that neither the applicant nor any person who is an officer of, in a managing position with, or has an ownership interest in the applicant has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.


If there has been a determination that the applicant, or any individual associated with the

applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (1) Date of determination of violations;
  - (2) Identity of tribunal or court and case name or number;
  - (3) Government contract or project involved;
  - (4) Government agency involved (local, state and/or federal);
  - (5) Amount of fine(s) imposed; and
  - (6) Any exculpatory information.
- 

Declaration: I declare under penalty of perjury that the above information, and any information attached and incorporated herein, is true and correct.

Executed this 20<sup>th</sup> day of March 2018 at Clrvine, CA  
(month and year) (city and state)

by   
(signature of owner, officer, manager, or licensee responsible for submission of  
Bid/Proposal/Statement of Qualifications)

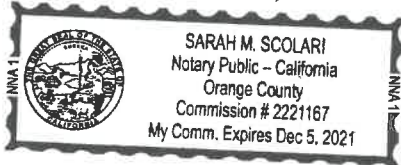
[NOTARY ACKNOWLEDGEMENT TO FOLLOW]

STATE OF CALIFORNIA     )  
  )  
SS: COUNTY OF LOS        )  
ANGELES                    )

Subscribed and sworn to (or affirmed) before me this 20<sup>th</sup> day of March, 2018.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL OF NOTARY)



(Signature of Notary)

(Typed Name of Notary)

END OF DOCUMENT



**Martinez Architects, Inc.**

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR STRUCTURAL ENGINEERING**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and **Martinez Architects, Inc.** ("Contractor") together sometimes referred to the ("Parties").

**SECTION 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A and incorporated here. Such work shall be provided at the time and place and in the manner specified in Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end three years after the Effective Date. Contractor shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended as provided for in Section 7. The time provided to Contractor to complete the services required by this Agreement shall not affect City's right to terminate the Agreement, as provided for in Section 7.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner including the necessary expertise or knowledge of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons. Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.
- 1.5 Authorization to Perform Services.** Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from City's project representative.

**SECTION 2. COMPENSATION.** City hereby agrees to pay Contractor in accordance with the payment schedule as set forth in Exhibit B, attached hereto and incorporated herein by reference as though set forth in full, based upon work completed, as defined in Exhibit A. In the

event of a conflict between this Agreement and Exhibit A regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

- 2.1 **Invoices.** Contractor shall submit invoices monthly during the term of this Agreement, based on the work completed. Invoices shall identify the project being worked on and detail of services performed.
- 2.2 **Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 **Total Payment.** City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- 2.4 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.
- 2.5 **Payment upon Termination.** In the event that City or Contractor terminates this Agreement pursuant to Section 7, City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**SECTION 3. EQUIPMENT.** Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all supplies and equipment necessary to perform the services required by this Agreement.

**SECTION 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. All insurance coverage and limits provided by Contractor and available or applicable under this

Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

**4.1 Workers' Compensation.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance Shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General Insurance and Automobile Liability Insurance.**

**4.2.1 Commercial General Liability Insurance:** Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage of \$2,000,000 in the general aggregate, for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (per occurrence). Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (per accident). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. City shall have the right to exercise, at the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A-.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with Certificates of Insurance, and upon request, complete certified copies of all policies, including

complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified, mail, return receipt requested, has been given to City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than ten (10) working days after Contractor is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

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

**4.4.6 Variation.** The City Attorney may approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

**4.4.7** No policy required hereunder shall prohibit Contractor from waiving any right with regard to the Indemnities set out below in Section 5.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION**

Contractor shall indemnify, defend with counsel acceptable to City and hold harmless City and its officials, officers, employees, members, agents and authorized volunteers from and against any and all losses, liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, damages and expenses of any kind, whether actual or threatened (including but not limited to attorneys' fees and costs, court costs, interest defense costs, and expert witness fees) where the same arise out of, are a consequence of or are in any way attributable to, in whole or in part, the performance of this Agreement (or the failure to perform) by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor. Such indemnification, defense and hold harmless extend to Contractor's provision, use, transport and storage of hazardous materials, as those commonly are defined under state and federal laws and regulations.

The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property or violation of law arises wholly from the negligence or willful misconduct of City or its officers, employees, agents or authorized volunteers and (2) the actions of Contractor or its employees, subcontractors or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

## **SECTION 6. LEGAL REQUIREMENTS.**

- 6.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 Compliance with Applicable Laws.** Contractor and any subcontractor shall comply with all applicable local, state and federal laws and regulations applicable to the performance of the work hereunder.
- 6.3 Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

## **SECTION 7. TERMINATION AND MODIFICATION.**

- 7.1 Termination.** City and Contractor hereby agree that this Agreement may be cancelled upon thirty (30) days written notice.
- In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.
- 7.2 Extension.** Both parties agree that extending the Agreement beyond that provided for in Subsection 1.1 may be in the best interest of all concerned. Any such extension shall require a written amendment to this Agreement, as provided for herein. City and Contractor understand and agree that, if both parties agree to such an extension, all terms and conditions of the original Agreement shall remain the same, and extended to the date provided for in said amendment.
- 7.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.4 Survival.** All obligations arising prior to the termination of this Agreement and



all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

**7.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all the following:

**7.5.1** Immediately terminate the Agreement;

**7.5.2** Retain the documents, and any other work product prepared by Contractor pursuant to this Agreement;

**7.5.3** Retain a different Contractor to complete the work described in Exhibit A not finished by Contractor; or

**7.5.4** Charge Contractor the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **SECTION 8. KEEPING AND STATUS OF RECORDS.**

**8.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon termination of the Agreement.

**8.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

**8.3 Inspection and Audit of Records.** Any records or documents that Section 8.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **SECTION 9. UNAUTHROIZED ALIENS.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **SECTION 10. CONFLICTS OF INTEREST.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

## **SECTION 11. MISCELLANEOUS PROVISIONS.**

- 11.1 **Assignment.** The expertise and experience of Contractor are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor under this Agreement. In recognition of that interest, Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.
- 11.2 **Attorneys' Fees.** If either party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 11.3 **Venue.** In the event that either party brings any action against the other under this

Agreement, the parties agree that trial of such action shall be vested exclusively in Los Angeles County.

- 11.4 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.5 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.6 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and permitted assigns of the parties.
- 11.7 Contractor Representative.** All matters under this Agreement shall be handled for Contractor by **Tony Morera**.
- 11.8 City Contract Administration.** This Agreement shall be administered by Maryam Babaki, Director of Public Works and Development Services, or her designee ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 11.9 Notices.** Any written notice to Contractor shall be sent to:
- Tony Morera**  
**Senior Design Principal/Senior Project Manager**  
**Martinez Architects, Inc.**  
**8405 Pershing Drive, Suite 201**  
**Playa Del Rey, CA 90293**
- Any written notice to City shall be sent to:
- Maryam Babaki**  
**Director of Public Works and Development Services**  
**City of Commerce**  
**2535 Commerce Way**  
**Commerce, CA 90040**
- 11.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE

CONTRACTOR

\_\_\_\_\_  
Ivan Altamirano, Mayor

  
\_\_\_\_\_  
Tony Morera, Senior Design Principal/  
Senior Project Manager

Attest:

\_\_\_\_\_  
Lena Shumway, City Clerk

Approved as to Form:

\_\_\_\_\_  
Noel Tapia, City Attorney

## EXHIBIT A: SCOPE OF SERVICES

### SCOPE OF SERVICES

As presented to the City of Commerce in our SOQ dated September 4, 2015 for **Various On-Call Professional Services**, Martinez Architects, Inc. and its sub-consultant team are qualified to perform the following disciplines, on an "as-needed" basis, for any capital improvement and/or development projects:

- Architectural Design (modernization, renovation and new construction)
- Master Planning
- Space Planning
- Building and Facilities Assessment and Design
- Building and Tenant Improvements (inc. Plan Check)
- Housing
- Structural Engineering (inc. Historical Restoration)
- Park Planning & Design
- Construction Management
- Project Management

**EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)** Page 1 of 2  
 SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
 (CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

**Note:** Mark-ups are Not Allowed  
 Consultant or Subconsultant MARTINEZ ARCHITECTS, INC. Contract No. \_\_\_\_\_ Date 25May 2017

Fringe Benefit 0.00% + Overhead 0.00% + General Administration 0.00% = 0.00% Combined Indirect Cost Rate (ICR)  
 (= 0% if Included in OH) (= 0% if Included in OH)

FEE = 0.00%

## BILLING INFORMATION

## CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>		Effective date of hourly rate		Actual or Avg. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x) OT(2x)	From	To			
Senior Design Principal					\$66.00	2.75 0.00% 0.00% 0.00%	\$181.50
Project Manager/Sr. Architect					\$54.00	0.00% 0.00% 0.00%	\$148.50
Architect/LEED Professional					\$42.00	0.00% 0.00% 0.00%	\$115.50
Job Captain					\$38.00	0.00% 0.00% 0.00%	\$104.50
CADD Technician					\$25.00	0.00% 0.00% 0.00%	\$68.75
Office Support/Clerical					\$22.00	0.00% 0.00%	\$60.50

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate \* (1 + ICR) \* (1 + Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

## NOTES:

- Denote all employees subject to prevailing wage with an asterisks (\*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

## Page 2 of 2

Consultant or Subconsultant	MARTINEZ ARCHITECTS, INC.	Contract No.	
		Date	25 May 2017

SCHEDULE OF OTHER DIRECT COST ITEMS											
PRIME CONSULTANT				SUBCONSULTANT #1				SUBCONSULTANT #2			
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
Reproductions (not included in Scope of Services)			\$ 0.00				\$ 0.00				\$ 0.00
Special Presentations (not included in Scope of Services)			\$ 0.00				\$ 0.00				\$ 0.00
Reimbursable Expenses as determined by Scope of Services for specific project.			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
PRIME TOTAL ODCs =			\$ 0.00	SUBCONSULTANT #1 ODCs =			\$ 0.00	SUBCONSULTANT #2 ODCs =			\$ 0.00

1. List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
2. Proposed items should be consistently billed directly to all clients (Commercial entities, Federal Govt., State Govt., and Local Govt. Agency), and not just when the client will pay for them as a direct cost.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency.
7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is their standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.

**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

CITY OF COMMERCE CITY HALL  
2535 Commerce Way  
Commerce, CA 90040

Applicants and/or existing on-call consultants shall provide the information requested herein below, with the ~~notarized~~ certification requested at the end of this document, to the City of Commerce ("City"). **Failure to fully and accurately provide the requested ~~notarized~~ certification or information to the City may result in a determination that the applicant and/or existing on-call consultant is not responsible, nonresponsive and/or that their application is incomplete.**

**I. Criminal Conviction(s):**

For the five (5) years preceding the date of when this document is submitted to the City, identify on attached page(s) any criminal conviction in any jurisdiction of the United States for a violation of law arising out of the performance of a contract (1) by the applicant and/or existing on-call consultant submitting this supplemental information to the City, including any person who is an officer of, or in a management position with, or has an ownership interest in the entity which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, or (2) by the person(s) performing the work described in the original, or subsequent Bid/Proposal/statement of Qualifications, including any such person when they were an officer, manager, owner, or responsible managing employee of any other consulting company other than the applicant and/or existing on-call consultant submitting this supplemental questionnaire to the City.

Provide on an attached page, and label "Criminal Convictions Information":

- (1) The date of conviction;
- (2) The name and court case identification number;
- (3) The identity of the law violated;
- (4) The identity of the prosecuting agency;
- (5) The contract or project involved;
- (6) The punishment imposed; and
- (7) Any exculpatory information of which the City should be aware.

**II. Non-Collusion Declaration:**

I am the party submitting a proposal for the award of an On-Call Professional Services Agreement, and/or that submitted a Statement of Qualifications to provide said services, for the City. I hereby declare, on behalf of Martinez Architects, Inc., and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or



indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the terms of the proposal, including the amount to paid to the City in the form of consulting fees, permit fees and other forms of compensation, or to fix any overhead, profit or cost element of the proposal, or of that of any other proposer, or to secure any advantage against the public body awarding the agreement to anyone interested in being awarded professional services agreements; that all statements contained in the proposal/statement of qualifications are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal/statement of qualifications or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization or to any member or agent thereof to effectuate a collusive or sham proposal.

I further declare, on behalf of Martinez Architects, Inc., and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that we have individually, and as an organization, not been subject of an open, pending or past civil or criminal investigation for the actions discussed herein; and/or that we have not been sued civilly or prosecuted criminally for the actions discussed herein.

### **III. Civil Litigation History:**

For the five (5) preceding years preceding the date of when this document is submitted to the City, identify on attached page(s) any civil litigation arising out of the performance of a professional services/on-call-consulting contract within the State of California in which any of the following was a named plaintiff or defendant in a lawsuit brought by or against the entity soliciting Bid/Proposal/Statement of Qualifications: the applicant submitting the instant Bid/Proposal/Statement of Qualifications, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid/Proposal/Statement of Qualifications. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices. Provide on an attached page(s) labeled "Civil Litigation History Information:"

- (1) The name and court case identification number of each case,
- (2) The jurisdiction in which it was filed; and
- (3) The outcome of the litigation, e.g., whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

### **IV. False Claims:**

"False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq. In submitting a Bid/Proposal/Statement of Qualifications to the City of I, hereby certify that neither the applicant nor any person who is an officer of, in a managing position with, or has an ownership interest in the applicant has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.

If there has been a determination that the applicant, or any individual associated with the


applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (1) Date of determination of violations;
- (2) Identity of tribunal or court and case name or number;
- (3) Government contract or project involved;
- (4) Government agency involved (local, state and/or federal);
- (5) Amount of fine(s) imposed; and
- (6) Any exculpatory information.

---

Declaration: I declare under penalty of perjury that the above information, and any information attached and incorporated herein, is true and correct.

Executed this \_\_\_\_\_ day of 4-17-18 at LA, CA  
(month and year) (city and state)

by   
(signature of owner, officer, manager, or licensee responsible for submission of Bid/Proposal/Statement of Qualifications)  
Signed by: Tony Morera, RA, Exec. VP/Senior Design Principal (authorized officer responsible for submission of Bid/Proposal/Statement of Qualifications)

[NOTARY ACKNOWLEDGEMENT TO FOLLOW]

A Notary public or other completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Los Angeles

Subscribed and Sworn to ( or affirmed) before me,

on This 17 day of April 2018 by ,

Tony Morera

who proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: Renu K Ahluwalia




Document: On-Call Professional Services Supplemental Questionnaire

STATE OF CALIFORNIA     )  
  )  
SS: COUNTY OF LOS     )  
ANGELES                    )

Subscribed and sworn to (or affirmed) before me this\_\_\_\_day of\_\_\_\_\_, 20\_\_\_\_\_.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL OF NOTARY)

*see attached CA Jurat*  
\_\_\_\_\_  
(Signature of Notary) 

\_\_\_\_\_  
(Typed Name of Notary)

END OF DOCUMENT

**Miyamoto International, Inc.**

## **PROFESSIONAL SERVICES AGREEMENT ON-CALL FOR STRUCTURAL ENGINEERING**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and Miyamoto ("Contractor") together sometimes referred to the ("Parties").

**SECTION 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A and incorporated here. Such work shall be provided at the time and place and in the manner specified in Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end three years after the Effective Date. Contractor shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended as provided for in Section 7. The time provided to Contractor to complete the services required by this Agreement shall not affect City's right to terminate the Agreement, as provided for in Section 7.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner including the necessary expertise or knowledge of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons. Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.
- 1.5 Authorization to Perform Services.** Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from City's project representative.

**SECTION 2. COMPENSATION.** City hereby agrees to pay Contractor in accordance with the payment schedule as set forth in Exhibit B, attached hereto and incorporated herein by reference as though set forth in full, based upon work completed, as defined in Exhibit A. In the event of a conflict between this Agreement and Exhibit A regarding the amount of

compensation, this Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

- 2.1 **Invoices.** Contractor shall submit invoices monthly during the term of this Agreement, based on the work completed. Invoices shall identify the project being worked on and detail of services performed.
- 2.2 **Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 **Total Payment.** City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- 2.4 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.
- 2.5 **Payment upon Termination.** In the event that City or Contractor terminates this Agreement pursuant to Section 7, City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**SECTION 3. EQUIPMENT.** Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all supplies and equipment necessary to perform the services required by this Agreement.

**SECTION 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. All insurance coverage and limits provided by Contractor and available or applicable under this

Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

**4.1 Workers' Compensation.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance Shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General Insurance and Automobile Liability Insurance.**

**4.2.1 Commercial General Liability Insurance:** Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage of \$2,000,000 in the general aggregate, for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (per occurrence). Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (per accident). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:



- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. City shall have the right to exercise, at the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A-.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with Certificates of Insurance, and upon request, complete certified copies of all policies, including

complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified, mail, return receipt requested, has been given to City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than ten (10) working days after Contractor is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

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

**4.4.6 Variation.** The City Attorney may approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

**4.4.7** No policy required hereunder shall prohibit Contractor from waiving any right with regard to the Indemnities set out below in Section 5.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION**

Contractor shall indemnify, defend with counsel acceptable to City and hold harmless City and its officials, officers, employees, members, agents and authorized volunteers from and against any and all losses, liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, damages and expenses of any kind, whether actual or threatened (including but not limited to attorneys' fees and costs, court costs, interest defense costs, and expert witness fees) where the same arise out of, are a consequence of or are in any way attributable to, in whole or in part, the performance of this Agreement (or the failure to perform) by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor. Such indemnification, defense and hold harmless extend to Contractor's provision, use, transport and storage of hazardous materials, as those commonly are defined under state and federal laws and regulations.

The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property or violation of law arises wholly from the negligence or willful misconduct of City or its officers, employees, agents or authorized volunteers and (2) the actions of Contractor or its employees, subcontractors or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

## **SECTION 6. LEGAL REQUIREMENTS.**

- 6.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 Compliance with Applicable Laws.** Contractor and any subcontractor shall comply with all applicable local, state and federal laws and regulations applicable to the performance of the work hereunder.
- 6.3 Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

## **SECTION 7. TERMINATION AND MODIFICATION.**

- 7.1 Termination.** City and Contractor hereby agree that this Agreement may be cancelled upon thirty (30) days written notice.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.

- 7.2 Extension.** Both parties agree that extending the Agreement beyond that provided for in Subsection 1.1 may be in the best interest of all concerned. Any such extension shall require a written amendment to this Agreement, as provided for herein. City and Contractor understand and agree that, if both parties agree to such an extension, all terms and conditions of the original Agreement shall remain the same, and extended to the date provided for in said amendment.
- 7.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.4 Survival.** All obligations arising prior to the termination of this Agreement and

all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

**7.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all the following:

**7.5.1** Immediately terminate the Agreement;

**7.5.2** Retain the documents, and any other work product prepared by Contractor pursuant to this Agreement;

**7.5.3** Retain a different Contractor to complete the work described in Exhibit A not finished by Contractor; or

**7.5.4** Charge Contractor the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **SECTION 8. KEEPING AND STATUS OF RECORDS.**

**8.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon termination of the Agreement.

**8.2 Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

**8.3 Inspection and Audit of Records.** Any records or documents that Section 8.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **SECTION 9. UNAUTHROIZED ALIENS.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **SECTION 10. CONFLICTS OF INTEREST.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

## **SECTION 11. MISCELLANEOUS PROVISIONS.**

- 11.1 **Assignment.** The expertise and experience of Contractor are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor under this Agreement. In recognition of that interest, Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.
- 11.2 **Attorneys' Fees.** If either party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 11.3 **Venue.** In the event that either party brings any action against the other under this

Agreement, the parties agree that trial of such action shall be vested exclusively in Los Angeles County.

- 11.4 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.5 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.6 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and permitted assigns of the parties.
- 11.7 Contractor Representative.** All matters under this Agreement shall be handled for Contractor by Ken Wong.
- 11.8 City Contract Administration.** This Agreement shall be administered by Maryam Babaki, Director of Public Works and Development Services, or her designee ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 11.9 Notices.** Any written notice to Contractor shall be sent to:
- Ken Wong  
Principal  
Miyamoto  
707 Wilshire Blvd., Suite 5100  
Los Angeles CA 90017
- Any written notice to City shall be sent to:
- Maryam Babaki  
Director of Public Works and Development Services  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040
- 11.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

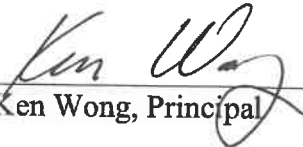
**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE

CONTRACTOR

\_\_\_\_\_  
Oralia Y. Rebollo, Mayor

\_\_\_\_\_  
  
Ken Wong, Principal

Attest:

\_\_\_\_\_  
Lena Shumway, City Clerk

Approved as to Form:

\_\_\_\_\_  
Noel Tapia, City Attorney



November 7, 2017

Ms. Jasmin Elepano  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040

2017 NOV -9 PM 2:32

**Subject: Statement of Scope of Work related to City of Commerce On-Call Professional Services  
Commerce, CA  
MI1502063.00**

Dear Ms. Elepano:

Miyamoto International is pleased to be able to submit to you the following Scope of Work for On-Call Professional Services in the discipline of Structural Engineering. Because we are able to serve you for both building and bridge structures, we have included a separate list for each, as follows:

**Scope of Work – Buildings:**

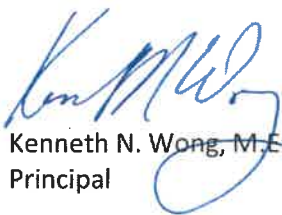
- Conceptual, preliminary and final engineering design of new structures
- Condition assessment of existing structures
- Seismic evaluation and retrofit of existing structures
- Design of structural repairs and alterations
- Design of equipment supports
- Code review of documents prepared by others
- Constructability and peer review of documents prepared by others
- Structural observation during construction
- Preparation of material testing programs

**Scope of Work – Bridges:**

- Bridge inspection and highway bridge program funding applications
- Highway bridge advance planning study
- Conceptual, preliminary and final engineering design of highway bridge, railroad bridge, grade separations and pedestrian bridges
- Bridge independent checks
- Seismic evaluation and retrofit of existing bridge structures
- Design of structural pipe hangers to bridge structures
- Design review of documents prepared by others
- Constructability and peer review of documents prepared by others
- Structural observation during construction
- Preparation of material testing programs

Please feel free to contact me if you have any questions. We are look forward to working with you.

Best regards,  
Miyamoto International, Inc.



Kenneth N. Wong, M.Eng., S.E.  
Principal

## 2017 Miyamoto International, Inc., Billing Rates

Principal	\$297.00/hr.
Associate Principal	\$217.00/hr.
Senior Associate	\$191.00/hr.
Associate	\$170.00/hr.
Project Engineer	\$160.00/hr.
Staff Engineer	\$127.00/hr.
Structural Designer	\$138.00/hr.
Administrative	\$80.00/hr.
Expert Witness	\$350.00/hr.
Deposition & Court Testimony	\$400.00/hr.



1820 E First Street, Suite 110  
Santa Ana, CA 92705  
(714) 683-0470  
Fax (714) 683-0460  
[www.PacRimEngineering.Com](http://www.PacRimEngineering.Com)

## SCHEDULE OF HOURLY RATES

January 1, 2017

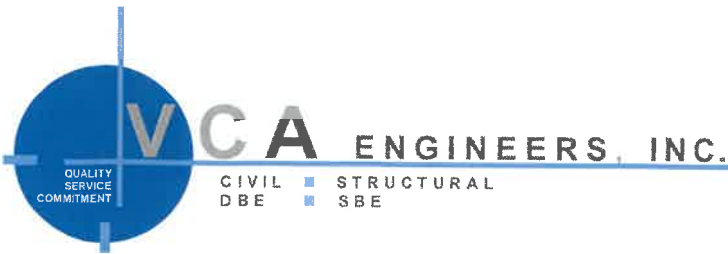
Principal Engineer .....	\$225.00
Senior Project Manager .....	210.00
Supervising Engineer .....	205.00
Project Manager .....	205.00
Sustainability Manager .....	185.00
Senior Engineer .....	185.00
Senior Project Engineer .....	185.00
Project Engineer .....	170.00
Associate Engineer .....	160.00
Senior Design Engineer .....	150.00
Design Engineer .....	135.00
Sr. Designer/ Sr. CADD Drafter .....	135.00
CAD Designer .....	125.00
CAD Drafter .....	115.00
Project Coordinator .....	85.00
Technical Aide/Admin .....	75.00

Printing and reproduction will be invoiced at cost of \$0.55 per square foot.

Travel will be invoiced at IRS rate per mile based on roundtrip mileage to and from PacRim's Santa Ana office.

Call out procedure and minimums is 2 hours advance notice for 4 hours minimum charge.

Outside vendor's services will be invoiced at cost plus fifteen percent (15%). A subconsultant markup of ten percent (10%) will be applied to the direct cost of all subconsultant services.



## **2017 VCA ENGINEERS SCHEDULE OF FEES**

### **PROFESSIONAL STAFF**

### **HOURLY RATE**

Principal	\$210.00
Project Manager	\$180.00
Lead/Senior Project Engineer	\$165.00
Project Engineer	\$150.00
Engineer	\$140.00
BIM Modeler	\$120.00
Senior CADD Technician	\$100.00
CADD Technician	\$90.00
Clerical/Admin	\$65.00

### **MILEAGE AND SUBSISTENCE**

Auto Mileage	\$ 0.54 per mile plus 10%
Parking	Actual Cost plus 10%
Air Travel and Car Rental	Actual Cost plus 10%
Subsistence (overnight out of LA)	Actual Cost plus 10%

### **DIRECT SERVICES**

<b>Milestone Reproducible Submittal (one set)</b>	<b>Included in Proposed Fees</b>
Messenger and Overnight Delivery Services	Actual Cost plus 10%
Long Distance Phone	Actual Cost plus 10%
Outside B&W Plotting	Actual Cost plus 10%
Sepia/Mylar	Actual Cost plus 10%
Reprographic Services (binding, mounting and etc.)	Actual Cost plus 10%

### **LIABILITY INSURANCE**

During the terms of this agreement, VCA shall at all times procure and maintain insurance. VCA carries General, Automobile Liability Insurance and Workers Compensation at \$2M each occurrence and Professional Liability Insurance at \$2M per claim.

### **CLAIMS AND DISPUTES**

Client and VCA agree to negotiate and resolve all disputes between them in good faith as a first attempt. If the dispute cannot be resolved therein, the parties shall mutually agree to submit the matter to mediation and arbitration in accordance with the American Arbitration Association's Commercial Mediation Rules if the total dispute is less than \$49,000. The results of the arbitration, as decided by three (3) arbitrators, each party choosing their own arbitrator and the two arbitrator choosing a third member, shall be final, and judgment may be entered upon it in any court of competent jurisdiction in the City where the work is performed.

---

#### **Los Angeles County**

1041 S. Garfield Ave., Suite 210, Alhambra, CA 91801  
Tel: 323-729-6098 • Fax: 626-872-0795  
e-mail: [vca@vcaeng.com](mailto:vca@vcaeng.com)

#### **Orange County**

2151 Michelson Dr. #240, Irvine, CA 92612  
Tel: 949-679-0870 • Fax: 949-679-9370  
[www.vcaeng.com](http://www.vcaeng.com)

**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

CITY OF COMMERCE CITY HALL  
2535 Commerce Way  
Commerce, CA 90040

Applicants and/or existing on-call consultants shall provide the information requested herein below, with the ~~notarized~~ certification requested at the end of this document, to the City of Commerce ("City"). **Failure to fully and accurately provide the requested notarized certification or information to the City may result in a determination that the applicant and/or existing on-call consultant is not responsible, nonresponsive and/or that their application is incomplete.**

**I. Criminal Conviction(s):**

For the five (5) years preceding the date of when this document is submitted to the City, identify on attached page(s) any criminal conviction in any jurisdiction of the United States for a violation of law arising out of the performance of a contract (1) by the applicant and/or existing on-call consultant submitting this supplemental information to the City, including any person who is an officer of, or in a management position with, or has an ownership interest in the entity which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, or (2) by the person(s) performing the work described in the original, or subsequent Bid/Proposal/statement of Qualifications, including any such person when they were an officer, manager, owner, or responsible managing employee of any other consulting company other than the applicant and/or existing on-call consultant submitting this supplemental questionnaire to the City.

Provide on an attached page, and label "Criminal Convictions Information":

- (1) The date of conviction;
- (2) The name and court case identification number;
- (3) The identity of the law violated;
- (4) The identity of the prosecuting agency;
- (5) The contract or project involved;
- (6) The punishment imposed; and
- (7) Any exculpatory information of which the City should be aware.

**II. Non-Collusion Declaration:**

I am the party submitting a proposal for the award of an On-Call Professional Services Agreement, and/or that submitted a Statement of Qualifications to provide said services, for the City. I hereby declare, on behalf of Miyamoto International, Inc., and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or

indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the terms of the proposal, including the amount to paid to the City in the form of consulting fees, permit fees and other forms of compensation, or to fix any overhead, profit or cost element of the proposal, or of that of any other proposer, or to secure any advantage against the public body awarding the agreement to anyone interested in being awarded professional services agreements; that all statements contained in the proposal/statement of qualifications are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal/statement of qualifications or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization or to any member or agent thereof to effectuate a collusive or sham proposal.

I further declare, on behalf of Miyamoto International, Inc., and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that we have individually, and as an organization, not been subject of an open, pending or past civil or criminal investigation for the actions discussed herein; and/or that we have not been sued civilly or prosecuted criminally for the actions discussed herein.

### **III. Civil Litigation History:**

For the five (5) preceding years preceding the date of when this document is submitted to the City, identify on attached page(s) any civil litigation arising out of the performance of a professional services/on-call-consulting contract within the State of California in which any of the following was a named plaintiff or defendant in a lawsuit brought by or against the entity soliciting Bid/Proposal/Statement of Qualifications: the applicant submitting the instant Bid/Proposal/Statement of Qualifications, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid/Proposal/Statement of Qualifications. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices. Provide on an attached page(s) labeled "Civil Litigation History Information:"

- (1) The name and court case identification number of each case,
- (2) The jurisdiction in which it was filed; and
- (3) The outcome of the litigation, e.g., whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

### **IV. False Claims:**

"False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq. In submitting a Bid/Proposal/Statement of Qualifications to the City of I, hereby certify that neither the applicant nor any person who is an officer of, in a managing position with, or has an ownership interest in the applicant has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.


If there has been a determination that the applicant, or any individual associated with the

applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (1) Date of determination of violations;
  - (2) Identity of tribunal or court and case name or number;
  - (3) Government contract or project involved;
  - (4) Government agency involved (local, state and/or federal);
  - (5) Amount of fine(s) imposed; and
  - (6) Any exculpatory information.
- 

Declaration: I declare under penalty of perjury that the above information, and any information attached and incorporated herein, is true and correct.

Executed this 22 day of March 2018 at Los Angeles, CA  
(month and year) (city and state)

by   
(signature of owner, officer, manager, or licensee responsible for submission of  
Bid/Proposal/Statement of Qualifications)

[NOTARY ACKNOWLEDGEMENT TO FOLLOW]

STATE OF CALIFORNIA     )  
  )  
SS: COUNTY OF LOS     )  
ANGELES                     )

Subscribed and sworn to (or affirmed) before me this\_\_\_\_day of\_\_\_\_\_, 20\_\_\_\_\_.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL OF NOTARY)

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Typed Name of Notary)

SEE ATTACHED

END OF DOCUMENT



# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Los Angeles }

On 3/22/18 before me, Jeffrey J. Masley, NOTARY,  
(Here insert name and title of the officer)

personally appeared Kenneth Nam Wong,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jeffrey J. Masley  
Notary Public Signature

(Notary Public Seal)



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

### CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)  
☐ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

Owen Group, Inc.

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR STRUCTURAL ENGINEERING**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and Owen Group ("Contractor") together sometimes referred to the ("Parties").

**SECTION 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A and incorporated here. Such work shall be provided at the time and place and in the manner specified in Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end three years after the Effective Date. Contractor shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended as provided for in Section 7. The time provided to Contractor to complete the services required by this Agreement shall not affect City's right to terminate the Agreement, as provided for in Section 7.
- 1.2 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner including the necessary expertise or knowledge of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons. Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.
- 1.5 **Authorization to Perform Services.** Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from City's project representative.

**SECTION 2. COMPENSATION.** City hereby agrees to pay Contractor in accordance with the payment schedule as set forth in Exhibit B, attached hereto and incorporated herein by reference as though set forth in full, based upon work completed, as defined in Exhibit A. In the event of a conflict between this Agreement and Exhibit A regarding the amount of

compensation, this Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

- 2.1 **Invoices.** Contractor shall submit invoices monthly during the term of this Agreement, based on the work completed. Invoices shall identify the project being worked on and detail of services performed.
- 2.2 **Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 **Total Payment.** City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- 2.4 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.
- 2.5 **Payment upon Termination.** In the event that City or Contractor terminates this Agreement pursuant to Section 7, City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**SECTION 3. EQUIPMENT.** Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all supplies and equipment necessary to perform the services required by this Agreement.

**SECTION 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. All insurance coverage and limits provided by Contractor and available or applicable under this

Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

**4.1 Workers' Compensation.** Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance Shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General Insurance and Automobile Liability Insurance.**

**4.2.1 Commercial General Liability Insurance:** Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage of \$2,000,000 in the general aggregate, for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (per occurrence). Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (per accident). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. City shall have the right to exercise, at the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A-.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with Certificates of Insurance, and upon request, complete certified copies of all policies, including

complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified, mail, return receipt requested, has been given to City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than ten (10) working days after Contractor is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

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

**4.4.6 Variation.** The City Attorney may approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

**4.4.7** No policy required hereunder shall prohibit Contractor from waiving any right with regard to the Indemnities set out below in Section 5.

**4.5 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION**

Contractor shall indemnify, defend with counsel acceptable to City and hold harmless City and its officials, officers, employees, members, agents and authorized volunteers from and against any and all losses, liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, damages and expenses of any kind, whether actual or threatened (including but not limited to attorneys' fees and costs, court costs, interest defense costs, and expert witness fees) where the same arise out of, are a consequence of or are in any way attributable to, in whole or in part, the performance of this Agreement (or the failure to perform) by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor. Such indemnification, defense and hold harmless extend to Contractor's provision, use, transport and storage of hazardous materials, as those commonly are defined under state and federal laws and regulations.

The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property or violation of law arises wholly from the negligence or willful misconduct of City or its officers, employees, agents or authorized volunteers and (2) the actions of Contractor or its employees, subcontractors or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.



## **SECTION 6. LEGAL REQUIREMENTS.**

- 6.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 **Compliance with Applicable Laws.** Contractor and any subcontractor shall comply with all applicable local, state and federal laws and regulations applicable to the performance of the work hereunder.
- 6.3 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

## **SECTION 7. TERMINATION AND MODIFICATION.**

- 7.1 **Termination.** City and Contractor hereby agree that this Agreement may be cancelled upon thirty (30) days written notice.
- In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.
- 7.2 **Extension.** Both parties agree that extending the Agreement beyond that provided for in Subsection 1.1 may be in the best interest of all concerned. Any such extension shall require a written amendment to this Agreement, as provided for herein. City and Contractor understand and agree that, if both parties agree to such an extension, all terms and conditions of the original Agreement shall remain the same, and extended to the date provided for in said amendment.
- 7.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.4 **Survival.** All obligations arising prior to the termination of this Agreement and

all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

- 7.5 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all the following:

- 7.5.1 Immediately terminate the Agreement;
- 7.5.2 Retain the documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 7.5.3 Retain a different Contractor to complete the work described in Exhibit A not finished by Contractor; or
- 7.5.4 Charge Contractor the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **SECTION 8. KEEPING AND STATUS OF RECORDS.**

- 8.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon termination of the Agreement.
- 8.2 **Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 8.3 **Inspection and Audit of Records.** Any records or documents that Section 8.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **SECTION 9. UNAUTHROIZED ALIENS.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **SECTION 10. CONFLICTS OF INTEREST.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

## **SECTION 11. MISCELLANEOUS PROVISIONS.**

**11.1 Assignment.** The expertise and experience of Contractor are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor under this Agreement. In recognition of that interest, Contractor shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.

**11.2 Attorneys' Fees.** If either party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

**11.3 Venue.** In the event that either party brings any action against the other under this

Agreement, the parties agree that trial of such action shall be vested exclusively in Los Angeles County.

- 11.4 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.5 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.6 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and permitted assigns of the parties.
- 11.7 Contractor Representative.** All matters under this Agreement shall be handled for Contractor by **Steven Hooper.**
- 11.8 City Contract Administration.** This Agreement shall be administered by Maryam Babaki, Director of Public Works and Development Services, or her designee ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 11.9 Notices.** Any written notice to Contractor shall be sent to:
- Steven Hooper**  
**Vice President**  
**Owen Group**  
**811 Wilshire Blvd., Suite 1050**  
**Los Angeles, CA 90017**
- Any written notice to City shall be sent to:
- Maryam Babaki**  
**Director of Public Works and Development Services**  
**City of Commerce**  
**2535 Commerce Way**  
**Commerce, CA 90040**
- 11.10 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

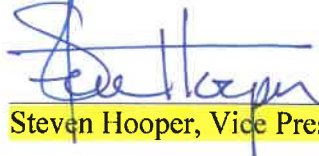
**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF COMMERCE

CONTRACTOR

\_\_\_\_\_  
Oralia Y. Rebollo, Mayor

\_\_\_\_\_  
  
Steven Hooper, Vice President

Attest:

\_\_\_\_\_  
Lena Shumway, City Clerk

Approved as to Form:

\_\_\_\_\_  
Noel Tapia, City Attorney



# Exhibit A – Scope of Work

Presented by Owen Group, Inc. to the City of Commerce *Public Works & Development Services*

## Management Approach

The following will communicate Owen's management approach to each project and how this approach has been refined to ensure the most value and benefit to our clients.

**Project Approach.** Owen approaches each project with a fresh set of ideas and a unique, comprehensive team arrangement that caters to the project type. We have assembled a diverse qualified and experienced project team of CA Licensed Structural Engineers. Project scope, budgets, and schedules, including milestone work delivery schedules, are developed through a detailed task/hour work plan for specific tasks and level of effort to meet individual project requirements. Our work plan will identify the Owen's technical roles, and the technical roles of our subconsultant partner, Lenax, as required. As with any project undertaken, Owen performs quality control reviews at strategic phases.

**Project Management Plan.** At the start of a task order project, Owen, in collaboration with the City of Commerce (City), will visit the site and review the Scope of Work (SOW) with the City and stakeholders and engage in development of the Project Management Plan (PMP) and the project's program. After reviewing and fully understanding the scope of work and the City's expectations, the Owen Project Manager prepares the PMP corresponding to the scope complexity and time constraints of the project(s).

The PMP contains descriptions of the project and the "deliverables", list of the various tasks, schedule, and detailed work plan for the elements of each task, as well as the project staff members responsible for that element. The plan also includes the task budgets, anticipated billings, project and client organization procedures for correspondence, filing, approvals, project control, company standards, FTA, Caltrans, CBC, California Emergency Management Agency (CAL EMA) Safety Assessment Program (SAP), Office of Statewide Health Planning and Development (OSHPD), Title 24, Chapter 34 of CBC 2010, FEMA Guidelines and ASCE Standards, ADA, LEED, and other governing agency standards and specifications, and the quality control plan.

We follow Project Management Institute (PMI) principals when implementing PMPs. The main topics are:

- **Identifying** the scope early on by engaging the stakeholders and ensuring a realistic project budget.
- **Planning**, initiating and scoping, validation and verification of the program/project.
- **Resources** - making sure you have appropriate staffing and expertise on the project including our subconsultant and adjusting staffing when necessary to meet the project schedule.
- **Communication** with the team and stakeholders all of the time using the latest available technology.
- **Integration** of the entire team with the stakeholders to be part of the overall solution.
- **Monitoring and Controlling** deliverables and meeting the stakeholders expectations of the project team.
- **Cost and Schedule** monitoring at all times and in detail at each phase of project delivery.
- **Risk** – identifying uncertainties early on and figuring their risks into the project.
- **Quality** - validating deliverables versus accepting deliverables; what is expected by the client, not the design team, for deliverables and quality of work.
- **Process** - proactive versus reactive process; project team communication to meet all expectations.

A copy of the PMP can be provided to the City for information purposes and to meet the auditing requirements of FTA, Caltrans, California Emergency Management Agency (CAL EMA) Safety Assessment Program (SAP), Office of Statewide Health Planning and Development (OSHPD), Title 24, Chapter 34 of CBC 2010, FEMA Guidelines and ASCE Standards and other agency requirements and the City. The plan is periodically reviewed and updated to keep current with City requirements. In addition, the Project Manager will prepare monthly project status reports to be submitted to the City's Project Manager. The Owen Team will work with the City's current project



management system to post project documents including plans, schedules, estimates, specifications, and design and construction drawings, etc., for effective management and collaboration.

**Project Controls.** Owen recognizes the importance of conducting a project within a controlled schedule budget and quality, as well as ensuring a high quality product, meeting or exceeding the expectations of the City. Owen has standard project management, quality assurance, and production and cost control procedures already in place for the management and performance of any City project. The assigned project team is prepared to successfully complete the project(s) within the time constraints to be established by the City. Owen has standard project management, quality assurance, and production/cost control procedures already in place for the management and performance of its projects.

**Cost Estimating/Cost Control.** Our approach to managing and controlling project costs is founded in the identification and resolution of cost impacts early in the process when we have the most ability to influence the outcome. Potential cost are immediately identified and analyzed during review of assessment findings, identification of deficiencies and proposed corrections, then tracked, addressed, and resolved on a continual basis. Owen retains staff specializing in developing project schedules and cost estimating with capabilities in providing project management. Under the management of Owen's Project Manager, and supporting Lenax estimating staff will perform independent audits of cost estimates to ensure accuracy and completeness.

**Analysis and Identification of Cost Alternatives.** The Owen team has extensive experience in estimating and managing costs during field assessment/evaluation through active analysis and identification of design elements and construction alternatives to effectively realize compliance with the targeted project budget. At each phase of the process, the project is estimated and the project scope is compared. Differences are highlighted and resolved, and providing alternatives that can optimize proposed improvements and construction are investigated and implemented, as appropriate, to align the project with the budget.

Throughout the field assessment phase, we will be proactive, we establish cost effective parameters, prototypes, and cost models and define appropriate procurement strategies. At the project level, we evaluate alternative construction materials, sustainable design choices, and site opportunities and phasing at every stage of development. We examine various construction approaches in the use and development of standard elements and prototypes. We develop alternative project phasing and work-arounds to alleviate schedule impacts due to material shortages, delayed equipment, site conditions, and adjacency issues that might impact a project.

**Change Order Management.** For a multitude of federal, state, and public agency new construction and expansion, renovation, and modernization projects, a critical component of Owen's work involves change order management. Change orders occur for numerous reasons, including addition or deletion of scope, changes to the project duration, revisions to materials and specifications, drawing and specification errors, differing site conditions, contractual non-compliance, as well as many other reasons. While change orders are inevitable, they can lead to cost and schedule overruns. Owen has become a recognized leader in managing change orders and significantly reducing the risk of claims that typically result in costly disputes and litigation.

Owen has been successful in resolving complex design, scope, and construction issues from a variety of perspectives—owner, designer, contractor, and others. Owen is committed to bringing a fresh perspective and dedicated effort to resolve issues that lead to change orders through a proactive, not reactive, management effort that focuses on thorough and careful analysis of the project, such as contractual documents, drawings and designs, and consistently monitoring and tracking the cost and schedule impacts associated with project changes, to identify problems before they occur. Owen recognizes the vital importance of completing a change order management process, not overlooking even the smallest of details. Comprehensive and systematic reviews of plans and specification and bid packages afford the best opportunity to identify errors, omissions, conflicts, and ambiguities that can impact the project. Other critical element is to ensure design documents adhere to applicable building codes, including accessibility compliance. These can also be identified early in the design phase and corrective measures can be taken immediately rather than when construction operations are underway.





The Owen team performs an all-inclusive cross-check between each discipline, including structural, architectural, civil, mechanical, electrical, plumbing, ADA accessibility, security consulting, environmental, hazardous materials, and so forth for completeness of the drawings and to coordinate such features as size, location, layout, construction materials, and capabilities to avoid conflicts. During the change order management process, such conflicts are identified and a feasible solution can be determined to prevent construction delays and bidding errors. Owen's approach is to invest the time and effort, so that the plans and specifications are systematically reviewed with the intent that not a single detail is overlooked. Buildability and bidability is the goal.

Owen retains a long established working relationship for a multitude of project types. This foundation of trust and respect has led to the delivery of quality work deliverables that our clients have come to expect from our respective firms. As a team, we will provide the City with a cohesive team of highly qualified individuals to ensure each project is completed to City's complete satisfaction—on time and on budget. Owen implements multiple layers of quality control throughout the course of a project to ensure we meet time sensitive schedules.

- **Schedule Control.** Owen utilizes common techniques to keep projects streamlined, organized, and on schedule.
- Periodic review and reporting includes:
- **Timeline Forecast** – determination of how long a project will take using available information on labor, productivity, etc., including possible deviations / escalations
- **Progress Assessment** – measurement of project progress including work estimates, inventories of supplies and materials, etc.
- **Estimation Software** – tracking of planned dates compared to estimated dates, and prediction if changes made to the schedule will progress project ahead or put it behind
- **Progress Monitoring** – identification of potential problems that can lead to delays. Systems include use of diaries, reports, meetings, etc. Determination is made as to whether or not delay prevention is cost effective for the project
- **Data Collection** – continual collection of project data to help identify potential problems. Sources include materials vendors, labor, managers, weather forecasts, etc.
- **Schedule Adjustment** – utilization of schedule change control systems that require changes to move through a process and approval procedure, preventing schedule changes that could delay the project. Schedules are made available in electronic and paper format in a graphic representation. Graphic schedules display current project progress and estimated project performance. Graphic schedules aid the project team in identifying project slippages and taking the steps necessary to correct them.
- **Scheduling Software.** Owen and our subconsultant partner, Lenax, will provide planning and scheduling support for all project phases, from development and pre-design through construction closeout. Our staff can utilize Primavera P6, SureTrak, Expedition, Meridian Prolog, Proliance and Microsoft Project software for the preparation of schedules. Owen's professional architects and engineers, and in-house support staff, are available to begin work immediately on any City project and will remain in their respective roles for the contract performance period. *Owen has ongoing project work; however, we are approximately at about 70% of capacity, at this time.* Many projects are in construction and we will complete most of them within two months.

## Quality Control Program

Owen's Quality Assurance and Quality Control (QA/ QC) has evolved over the years into a combined system that involves both project leadership and technical excellence. The role of the Project Manager is to foster enhanced communication, control, and coordination. Communication and project leadership is continually being refined and based upon our prior project experience. We are committed to avoiding rework and utilizing systems that encourage project completion in the first attempt. This requires a commitment to planning and results, as well as an enhanced project control of cost, schedule, and scope of work. Owen also adheres to a strict project coordination of interdisciplinary efforts, federal, state, local, and governmental approvals, and communication with the client, affected stakeholders, and assessment team expectations.





Quality control in a project encompasses not only the completeness of the documents / reports but the programmatic content, work plan, and costs of the work. We pay special attention to the entire project to ensure that all appropriate measures are taken to provide exceptional quality.

Rigorous quality assurance is provided for all projects produced by Owen. The assurance is monitored by Owen principals and is established by two functions: Standards of Practice and Quality Control. Owen's deliberate application of these functions minimizes the occurrences of surprises or major change orders during construction. Owen's top management has a total commitment to the project and will have internally assigned both "QA/QC" officers and "Independent check" officers any City project assigned to Owen. These top personnel all have professional licenses in their fields.

Owen has the corporate experience, qualified staff, and professional capacity to complete design services for projects of any size, large or small. We maintain state-of-the-art computer software for analysis and design of structures. In fact, Owen assisted in the development of the ADAPT Software System for Concrete Structures, a tool for assisting engineers in analysis and design of post-tensioned and regular concrete construction.

Effective quality control, quality assurance, and project management procedures are incorporated into all projects. Our Quality Control staff coordinates and reviews the work of in-house designers and that of outside project teams, providing the client with a reliable quality assurance program. Technically thorough and based on sound engineering principals, Owen is at home with the realities of the construction world—keeping construction costs under control, providing timely service, and accurate scheduling. For this reason, our team has been the structural engineering firm of choice throughout the building industry.

Owen has significant structural engineering design experience for public parking structures. From the initial project programming and preliminary design concept to the completion of construction, our work reflects innovative approaches to solving even the most complex space and design problems.

Owen's professionals are well versed with the California Building Code Title 24 codes 2013 (with particular emphasis on seismic and structural codes), ASCE and FEMA, building standards and programs under OSHPD's jurisdiction, Division of the State Architect (DSA) Program for Essential Services Buildings Seismic Safety Act, LEED Design specifications, and other applicable guidelines which govern the work Owen performs. We have been extensively involved in the development of seismic provisions of the Uniform Building Code, the Structural Engineers Association of Southern California (SEAOSC), the American Concrete Institute Committees (ACI), the Earthquake Engineering Research Institute (EERI), and the American Society of Civil Engineers (ASCE). Several of our key principals have served as chairs or members on various committees and have assisted other countries in evaluating the effects of devastating earthquakes.

As a single-source structural engineering design and construction support firm, our ability to effectively manage large contracts requiring multiple site, building, and infrastructure new construction, renovations, and improvements occurring simultaneously, as well as managing large multidisciplinary project teams, has earned the trust of multiple clients. Owen has gained a solid reputation in the industry for managing projects with cost efficiency, on schedule, within budget, and to the full satisfaction of our clients.

Owen provides sound structural engineering and related design services that spans multiple industries and building types, in mainly design-build delivery methods both on the front under the Owner's contract preparing criteria or bridging documents with design builder providing comprehensive construction documents. Our innovative and aggressive designs have been central to the successful completion of numerous design build projects, where high quality of work and savings in construction cost are of paramount importance. Owen understands the importance of utilizing our construction expertise and quality control throughout the design process to minimize scheduling delays, budget overruns, which are often the result of change orders during construction operations.

A key to our success is that our professionals bring the latest in theoretical developments to the point of design application. We approach each project and program without any preconceived ideas, understanding that each



client, project, and program is unique. Our scope has involved the development of conceptual site plans and schematic designs through final designs, preparation of project schedules, performance specifications, scoping documents, basis of design diagrams, program cost estimates, and structural engineering. Supporting services have included architectural, civil, mechanical, electrical, plumbing and energy efficient engineering design and design and construction review, LEED commissioning, fire alarm and sprinkler systems, CCTV systems, low voltage data/telephone, building automation systems, and communication systems, security systems, and more.

**Structural Assessments & Engineering.** Owen provides structural engineering design from the ground up. Our careful design is based on buildings and other structures being able to support the loads which they bear, a challenge due to southern California's seismic activity and strong winds. Owen has also assisted multiple clients in the structural assessment of buildings, bridges, and associated infrastructure after a notable seismic or weather event, such as our work with public schools after the infamous Northridge Earthquake.

**Earthquake Engineering.** Owen designs buildings and the renovation of buildings, as well as other structures, to withstand the impacts of earthquake activities, inherent to southern California and other parts of the world. The impact of earthquakes is assessed based on such factors as previous seismic activity in the area and the types of soil, leading to the design of materials used in construction.

**Seismic Analysis & Design.** Owen provides analysis of structures to assess how a building will withstand the forces of earthquakes. This analysis determines the frequencies of vibration, twists, swaying, and other forces that can cause a building's structural integrity to fail.

Our structural engineers calculate the effect of earthquake movement and motions to analyze their effects on buildings based on the rock motion and the type of soil present. Seismic analysis and design leads to buildings that are more flexible, protecting the integrity of the building.

**Building Renovation and Structural Engineering.** Owen provides structural engineering for the seismic retrofit and renovation, improvement, and expansion of multiple public agency buildings, including municipal, educational, federal, state, and other government agencies. Owen's priority is the analysis on how to improve the building's integrity by increasing the seismic strength, such as older buildings that currently do not meet current seismic building codes.

Another factor which involves structural engineering design is increasing a building's energy efficiency, which may require new building systems, such as HVAC rooftop units, central plants, chillers, cooling towers, and so forth. These building systems must also be able to withstand seismic activity to remain operational and safe. Structural design is an imperative element in the design of these systems, a core service Owen provides to multiple public agency clients.

Owen has been providing structural engineering services to public agency and private sector clients for more than 30 years. Owen's depth of professional personnel and experience in providing as-needed services have allowed us to successfully meet the structural engineering needs of numerous public entities with wide variance of project sizes, types, and varying schedules. We understand that the City's construction improvement projects will vary in size, construction value, and necessary disciplines, and that most will be time sensitive. Owen's depth of experience providing these services for municipalities, transportation agencies, and other public agencies has enabled our professional's valuable insight how to effectively manage projects involving new design and design for renovation and upgrades of internal facility systems.

Owen's Principal professionals for this City contract bring many years of directly related experience in structural and earthquake engineering design and supporting peer reviews, plan reviews, all phases of design, construction administration, construction documents and bidding support, and facility condition evaluations, with an emphasis on seismic integrity. Owen's Project Manager and supporting staff have performed or supervised multiple capital improvement and related projects on an as-needed basis.



Owen's California Registered structural engineers, civil engineers, and seismic specialists will be actively supported by our in-house team members in architectural design, accessibility compliance specialists, civil, mechanical, plumbing, electrical (power, lighting, security, low voltage, and more), fire & life safety disciplines, commissioning agents (CxA), LEED consultants and energy auditing specialists, estimators, specification writers, procurement specialists, plan and constructability reviewers, software management, construction management, value engineers, BIM, CAD drafting, and support personnel. It is this strong base Owen draws upon to responsive, project tailored, as-needed services.

**Bridges and Other Transportation Related Infrastructure.**

Owen professional retain proven experience and resources to provide quality bridge design and related services. We utilize highly automated procedures and state-of-the-art design software, including finite element analysis and non-linear geometric and material analysis, as well as time-dependent creep and shrinkage analysis.

**Civil Engineering.** Civil engineering services at Owen are an integral part of our planning, infrastructure, and facilities work. In addition to providing street, grading and drainage, and utility design services, our civil group offers specialized expertise in the areas of site development, transportation, water resources, water and wastewater, and construction administration and management. We provide our services from design through construction, providing bid phase assistance and construction administration and management support. We are highly experienced in the entire planning, design, and construction process of civil engineering capital projects.

Our team can provide the City with civil engineering plan design and review services performed by licensed engineers with direct experience with site grading, drainage, National Pollutant Discharge Elimination System (NPDES), Standard Urban Stormwater Management (SUSM) Plan, Low Impact Development (LID), and hydromodification. Our team is exceptionally qualified because of their extensive experience in planning, design, construction, and maintenance of structures and altering geography to suit the City's needs.

**Site Investigations/Facility Condition Assessments/ Structural, Earthquake & Seismic Studies & Analysis.** Owen routinely performs comprehensive site investigations and feasibility studies relating to new construction, or the expansion, renovation, and upgrade/modernization of existing buildings and supporting structures. We also perform these services for transportation infrastructure, including bridges. Our registered structural engineers utilize structures staff utilizes highly automated procedures and state-of-the-art design software, including finite element analysis and non-linear geometric and material analysis, as well as time-dependent creep and shrinkage analysis. Often, structural and seismic assessments are performed simultaneously.

Site investigations and feasibility studies are conducted to allow the client to investigate the possible positive or negative outcomes for projects. Analysis is performed taking into code compliance, account legal, economic, technological, scheduling, and other factors to determine the ability to successfully complete the project.

Owen conducts six general steps to ensure an effective feasibility study:

- Project scope definition
- Current analysis
- Requirements definition
- Approach and recommendation
- Evaluation - cost analysis
- Review - assembly of feasibility study for formal review and approval

***Supporting Technical Disciplines***

As previously discussed, Owen is actively supported by alliance companies Owen Group, Inc., an architectural-based consulting firm also providing civil engineering, as well as by Henrikson Owen & Associates, Inc., providing mechanical, electrical, plumbing engineering; LEED commissioning; and energy efficient design. As specialized engineering and architectural needs arise in a project, Owen can utilize professionals from each of the Owen



companies to assist in various areas of technical expertise, enabling the firm to support any City project requirements in a timely and cost effective manner.

This unique, single source setting has provided Owen and all Owen Companies the ability to support a diverse range of projects without having to utilize subconsultants, which typically add additional overhead costs to clients.

If requested by the City, the following areas of technical expertise are available to the City.

- Architectural Design & Design Review
- Facility Condition Assessments
- ADA Accessibility Compliance
- Civil Engineering
- Mechanical Engineering
- Electrical Engineering
- Plumbing Engineering
- LEED Commissioning & Basic Commissioning
- Energy and Sustainable Design
- Energy Audits
- ePLANREVIEW In-House Database Management

## Energy Efficient / Sustainable Design Services

Owen's hallmark is energy-efficient, sustainable, and workable design. We have consistently manifested this philosophy in all projects undertaken by our firm, including one that received the first place national ASHRAE Energy Award for Alternative Energy Design and another, which was so unique that it received \$2,000,000 in grant funding from SCE and SCAQMD.

A commitment to sustainable development is embedded in all of Owen's work. Staying at the forefront of the sustainable (or "green") movement, Owen works with new technologies and is continually searching for new ways to use energy and materials effectively and economically.

Owen understands and has practiced LEED related activities beginning at the earliest phase of the project and continuing through the completion of construction. As LEED Consultants, Owen has the knowledge and in-depth understanding of green building and materials components and requirements.

Sustainability is a fundamental consideration in our design process. "Greening" building designs and enriching public spaces through various has multiple benefits, such as increasing comfort for the users by reducing glare and providing shade and visual relief. For years, most designers and engineers have overlooked sustainability as a factor in the design process. The Structural Engineering Association of California (SEAOC) is placing a higher emphasis on sustainability engineering design. Sustainable building materials include such materials as concrete mix that uses fly ash, the use and placement of glass in deep set windows to facilitate natural lighting into the structure, green rooftops, and more.

With LEED Accredited Professionals who can provide assistance toward LEED Certification of building design and can incorporate sustainable design practices, Owen provides a comprehensive array of services for energy efficient projects.

## Technical Approach

**Program Development/Validation/Gap Analysis.** As we move along in developing the program, Owen programming methodology includes doing a thorough analysis of existing conditions, reviewing existing documentation, and interviewing facilities and maintenance staff users to ensure a complete understanding of the City's objectives—all in an effort to identify most, if not all possible "gaps" in information or data. Costs for initial



implementation, maintenance, and life-cycle costs will be compiled, which will guide the design and decision-making process for a best-case scenario. Our team will work with various representatives from the City to ensure that the Scope of Work/Program and its requirements are fully confirmed and validated.

Our Design approach includes the following:

- Identification and analysis of site and land use issues. In case of working on existing buildings, understanding all the issues with the existing building systems and functions.
- Verification, evaluation, and validation of the space program; master planning, preliminary design (mass and scale analysis), site circulation and access, sensitivity to local historic and community context, utility investigation, and development of alternative massing concepts to accommodate user program on the site.
- Establish quality and performance criteria of all building components and finishes.
- Assist with the preparation of CEQA documents and public outreach efforts.
- Analyze and provide energy efficiency and sustainable building measures for LEED (UCGBC).
- Work directly with the City to address their objectives in design.
- Monitor cost estimates to ensure the design is within the budget.
- Present the design to the City and other stakeholders.

We will achieve stakeholder participation and consensus by providing iterative opportunities for dialogue that will ensure that the overall program and project schedule will remain on track and move steadily towards completion.

Owen's Project Manager first prepares a Work Plan / Flow Chart to demonstrate the steps and requirement to complete this assignment as described earlier. In short, after the site visit with the users, the City's PM/staff, and Owen's Project Manager, and required team members and our subconsultant partner, Owen will prepare

**SCHEMATIC (SD) / DESIGN DEVELOPMENT (DD) DRAWINGS** based on the approved

Scope of Work, approved task order proposal and executed contract, as well as the approved Work Plan. A cost estimate based on overall project volume will be provided for this phase.

The as-built condition of the facility, including dimensions and space limitations, will be verified prior to the completion of the schematic design drawings, as necessary. Along with the conditions verification, Owen will prepare a detailed schematic plan to define project elements including plans as required to allow ongoing maintenance and operations activity to continue uninterrupted during construction. Owen will submit the schematic/design development package for the Omnitrans Caltrans, and other governing agencies and City standards and Owen procedures with regards to quality, design sustainability, energy conservation, budget compliance, etc.

Owen will also present the SD/DD documents to the City's Project Manager and stakeholders, before preparing the final CD Documents.

**CONSTRUCTION DOCUMENTS** including final and complete drawings, technical specifications, and a final cost estimate.

The final working drawings will be prepared using the latest versions of AutoCAD and/or BIM software, in accordance with the City's drawing standards. Owen will interface and coordinate with the required local permitting agencies and/or utilities for building permits. The Construction Document package will be submitted to the City's Project Manager at 50% and 100% completion milestones for review and approval, including all the necessary steps to comply with City standards in regards to quality, design sustainability, energy conservation, budget compliance, etc. After completing the final review and comments by the City are incorporated, the final CD will be submitted to the agencies having jurisdiction for plan check, and eventual approval. Owen will be incorporating plan check comments (if any) prior to the final CD package being ready for bidding.





**BIDDING AND AWARD OF CONTRACT PHASE,** Owen will assist the City in soliciting and reviewing bids, providing a preliminary schedule for bidding, contract award and construction, formulating and issuing addenda, and revising the originals of all construction drawings to include changes incorporated in all addenda issued during the bidding phase.

#### **CONSTRUCTION SUPPORT SERVICES AND CLOSEOUT**

**PHASE,** Owen will visit the site to familiarize themselves with the progress and quality of the work and also to assist guarding the City against construction defects and deficiencies in the Contractor's work. Owen will also respond to RFIs, review shop drawings, samples and other submittals, formulate and issue Change Orders, inspect the construction to determine dates of Substantial Completion and Final Completion, develop a final checklist (including CEQA/NEPA requirements), review guarantees as submitted by the contractor, and prepare as-built record drawings from information supplied by the contractor other work activities as part of closeout procedures.

### **DBE Subconsultant Partner – Lenax Construction Services, Inc. (Lenax)**

As a Small Business Enterprise (SBE) and in support of the City's Disadvantaged Business Enterprise (DBE) participation goals, Owen has included Lenax Construction Services, Inc. (Lenax) as a subconsultant to provide cost estimating and scheduling projects. Since its inception in 1993, Lenax Construction Services, Inc. (Lenax) has provided quality cost estimating, scheduling, and other project control consulting services with Public Works and Government projects as a stand-alone specialty. Lenax has provided our cost estimating services on projects including community and childcare centers, community parks (including gymnasiums, bleachers, sports fields, bike trails, playgrounds, and pools), healthcare clinics, senior housing, libraries, sheriff and fire stations, high-tech facilities and laboratories, parking structures (above-ground and below-ground), as well as landscape and irrigation.

Lenax provides project control support services to numerous public agencies, including the City of Los Angeles' Bureaus of Engineering (LABOE) and Los Angeles World Airports (LAWA).

Currently, Lenax holds on-call estimating contracts with both the Los Angeles County Department of Public Works (DPW County of LA) and Orange County Public Works (OCPW). Other agencies to which Lenax has provided estimating support include Los Angeles County Metropolitan Transportation Authority (Metro), the Los Angeles Unified School District (LAUSD), the Los Angeles Community College District (LACCD), and Long Beach Community College District (LBCCD).

For more than 20 years, Lenax has cultivated many longstanding relationships with various civic and government owners. For many of these successful projects, Lenax has been a subconsultant to the Owen, providing as-needed estimating and scheduling services. A few notable and successful public works projects on which the Owen has turned to Lenax for design and construction management support include projects for DPW of the County of Los Angeles (LADPW), various school projects for Pasadena Unified School District (PUSD), Los Angeles County Museum of the Arts (LACMA), and Los Angeles County Internal Services Division (LACISD). A few of those recent projects on which Lenax assisted the Owen include:

- Sierra Mesa Fundamental School, Pasadena Unified School
- District - Value Engineering Assessment Studies (\$29M)
- McKinley Elementary School, Pasadena Unified School
- District - Value Engineering Assessment Studies (\$17.5M)
- Carson Sheriff's Station, LACISD. Rough order of magnitude cost estimate for a design/build 7,000 sf addition to the main Sheriff's Station (\$4.4M)
- Cooling Tower Service Platforms, Martin Luther King Jr. Hospital, Central Plant Phase 3, LADPW. Cost estimating services for 36" galvanized steel platforms around the four cooling towers. Estimates of probable construction cost were provided at 50% and 100% CD phases (\$355K)
- Los Angeles County Museum of the Arts Evaluation. Assessment of existing condition of the Los Angeles County Museum of Art campus, including four existing buildings. Provided cost estimating support to determine probable construction cost for refurbishment and/or replacement (\$503M)



- Having worked on a broad range of projects and programs throughout Southern California, Lenax assures that all cost estimating efforts are overseen by Certified Professional Estimators, providing the highest level of cost estimating support from design to construction closeout.
- Markets/Sectors Public Works/Government: Water and wastewater, infrastructure, parks and recreation, streetscapes, and community re-development, and heavy civil/land development, federal/state/local buildings, correctional, high tech facilities/laboratories, hazardous clean-ups, and landscape architecture Institutional: K-12, community colleges, and universities Transportation: High-speed trains, heavy and light rail, mass transit, highways, tunnels, bridges, and grade separations, street improvements, and traffic engineering.



## Owen Group 2017 Schedule of Fees

The following estimated hourly rates will be effective through 2017 and are subject to adjustment based upon a mutually agreeable cost index for subsequent years:

<b>Labor Classification</b>	<b>Hourly Rate</b>
Principal - Principal Architect - Principal Engineer	\$220.00
Senior Project Manager	\$175.00
Project Manager	\$160.00
Project Architect	\$155.00
LEED Specialist	\$150.00
Senior Interior Designer	\$150.00
Senior Architect	\$145.00
CASP	\$140.00
Architect	\$125.00
Interior Designer	\$125.00
Senior Civil Engineer	\$145.00
Civil Engineer	\$125.00
Senior Structural Engineer	\$185.00
Structural Engineer	\$125.00
Senior Mechanical Engineer	\$185.00
Mechanical Engineer	\$125.00
Senior Commissioning Agent	\$165.00
Commissioning Agent	\$135.00
Senior Plumbing/ Fire Protection Engineer	\$145.00
Plumbing Engineer	\$125.00
Senior Electrical Engineer	\$150.00
Electrical Engineer	\$125.00
Staff Designer / Engineer II	\$115.00
Staff Designer / Engineer I	\$105.00
Sr. CAD Designer	\$105.00
CAD Designer	\$85.00
Senior Cost Estimator	\$170.00
Cost Estimator / Scheduler	\$140.00
Project Coordinator / Document Control	\$95.00
Administrative	\$70.00
Clerical	\$60.00

### **Expenses**

Telephone, Printing, delivery & Reproduction : Actual cost + 10%

Travel expenses (food, lodging, etc.): Actual cost + 10%.

Mileage: \$0.535/mile



**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

CITY OF COMMERCE CITY HALL  
2535 Commerce Way  
Commerce, CA 90040

Applicants and/or existing on-call consultants shall provide the information requested herein below, with the ~~notarized~~ certification requested at the end of this document, to the City of Commerce ("City"). **Failure to fully and accurately provide the requested ~~notarized~~ certification or information to the City may result in a determination that the applicant and/or existing on-call consultant is not responsible, nonresponsive and/or that their application is incomplete.**

**I. Criminal Conviction(s):**

For the five (5) years preceding the date of when this document is submitted to the City, identify on attached page(s) any criminal conviction in any jurisdiction of the United States for a violation of law arising out of the performance of a contract (1) by the applicant and/or existing on-call consultant submitting this supplemental information to the City, including any person who is an officer of, or in a management position with, or has an ownership interest in the entity which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, or (2) by the person(s) performing the work described in the original, or subsequent Bid/Proposal/statement of Qualifications, including any such person when they were an officer, manager, owner, or responsible managing employee of any other consulting company other than the applicant and/or existing on-call consultant submitting this supplemental questionnaire to the City.

Provide on an attached page, and label "Criminal Convictions Information":

- (1) The date of conviction;
- (2) The name and court case identification number;
- (3) The identity of the law violated;
- (4) The identity of the prosecuting agency;
- (5) The contract or project involved;
- (6) The punishment imposed; and
- (7) Any exculpatory information of which the City should be aware.

**II. Non-Collusion Declaration:**

I am the party submitting a proposal for the award of an On-Call Professional Services Agreement, and/or that submitted a Statement of Qualifications to provide said services, for the City. I hereby declare, on behalf of Owen Group Inc., and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or

indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the terms of the proposal, including the amount to paid to the City in the form of consulting fees, permit fees and other forms of compensation, or to fix any overhead, profit or cost element of the proposal, or of that of any other proposer, or to secure any advantage against the public body awarding the agreement to anyone interested in being awarded professional services agreements; that all statements contained in the proposal/statement of qualifications are true; and, further, that the proposer has not, directly or indirectly, submitted its proposal/statement of qualifications or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization or to any member or agent thereof to effectuate a collusive or sham proposal.

I further declare, on behalf of Owen Group Inc., and each and every person who is an officer of, or in a management position with, or has an ownership interest in the entity, which is submitting this supplemental information on behalf of the applicant and/or existing on-call consultant, that we have individually, and as an organization, not been subject of an open, pending or past civil or criminal investigation for the actions discussed herein; and/or that we have not been sued civilly or prosecuted criminally for the actions discussed herein.

### **III. Civil Litigation History:**

For the five (5) preceding years preceding the date of when this document is submitted to the City, identify on attached page(s) any civil litigation arising out of the performance of a professional services/on-call consulting contract within the State of California in which any of the following was a named plaintiff or defendant in a lawsuit brought by or against the entity soliciting Bid/Proposal/Statement of Qualifications: the applicant submitting the instant Bid/Proposal/Statement of Qualifications, including any person who is an officer of, or in a managing position with, or has an ownership interest in the entity submitting the Bid/Proposal/Statement of Qualifications. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices. Provide on an attached page(s) labeled "Civil Litigation History Information:"

- (1) The name and court case identification number of each case,
- (2) The jurisdiction in which it was filed; and
- (3) The outcome of the litigation, e.g., whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

### **IV. False Claims:**

"False Claims Act", as used herein, is defined as either or both the Federal False Claims Act, 31 U.S.C. Sections 3729 et seq., and the California False Claims Act, Government Code Sections 12650 et seq. In submitting a Bid/Proposal/Statement of Qualifications to the City of I, hereby certify that neither the applicant nor any person who is an officer of, in a managing position with, or has an ownership interest in the applicant has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act as defined above.

If there has been a determination that the applicant, or any individual associated with the

applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (1) Date of determination of violations;
  - (2) Identity of tribunal or court and case name or number;
  - (3) Government contract or project involved;
  - (4) Government agency involved (local, state and/or federal);
  - (5) Amount of fine(s) imposed; and
  - (6) Any exculpatory information.
- 

Declaration: I declare under penalty of perjury that the above information, and any information attached and incorporated herein, is true and correct.

Executed this 19 day of March 2018 at Irvine, California  
(month and year) (city and state)

by [Signature]  
(signature of owner, officer, manager, or licensee responsible for submission of  
Bid/Proposal/Statement of Qualifications)

[NOTARY ACKNOWLEDGEMENT TO FOLLOW]

# CALIFORNIA JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }

COUNTY OF Orange }

Subscribed and sworn to (or affirmed) before me on this 19th day of March, 2018  
Date Month Year

by Steven Hooper

Name of Signers

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: \_\_\_\_\_

*Signature of Notary Public*



Seal  
*Place Notary Seal Above*

## OPTIONAL

*Though this section is optional, completing this information can deter alteration of the document or fraudulent attachment of this form to an unintended document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_