

# CONSTRUCTION MANAGEMENT AND INSPECTION

## AGREEMENTS – PAGE 1 OF 2

- Civil Source
- CSG Consultants, Inc.
- Dudek
- Elie Farah, Inc.
- Ghirardelli Associates, Inc.
- JM Diaz, Inc.
- KOA Corporation
- MARSS Services, Inc.

# Civil Source

**PROFESSIONAL SERVICES AGREEMENT**  
**ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and **Civil Source** ("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 Amy Amirani.
- 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:
- Amy Amirani  
Principal In Charge  
Civil Source  
9890 Irvine Center Drive  
Irvine, CA 92618
- 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

\_\_\_\_\_  
*Amy Amirani*  
Amy Amirani, Principal In Charge

Attest:

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

Approved as to Form:

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



## Scope of Services

CivilSource views construction management not simply as a list of tasks grouped by category but as a sequential and thorough process. We will provide all of the following tasks we feel may be required to meet the project objectives.

### *I. Project Start-Up, Coordination & Orientation Phase*

This phase is essential to establishing communications, setting protocols, and building the procedural framework for the project. In particular, we establish communications between the project team, including the construction management team, City staff, the engineering design team, the contractor, utility companies, and other interested parties, to the resolution of construction issues. Our pre-construction services can include:

- Review funding with the City to affirm the special requirements affecting the work, and identify accounting and reporting requirements that will be followed.
- Develop a project specific management plan that outlines the procedures for all team communications, reporting, review and approval of critical submittals, protocol for weekly meetings, distribution of documentation, change order procedures, and other necessary procedures in order to streamline the project. Ensure buy-in from all project members prior to the start of construction.
- Establish and ensure implementation of a coordination plan to coordinate work (e.g. utility facility relocations) and work impact (e.g. traffic and access) with all affected agencies including utilities, police and fire departments, home owner associations, and special districts.
- Prepare a master project schedule and follow up with contractor on a regular basis to make sure completion is within the scheduled time.
- Ensure that each member of our project team will have access to a mobile office which includes a laptop, internet/e-mail access, mobile phone, mobile project files, digital cameras and other required materials. Our construction managers and inspectors are always available via mobile phone for easy access and continuous communication.

### *II. Construction Phase*

CivilSource will focus on the daily tasks that are required to ensure the contractor is executing the work according to the accepted CPM baseline schedule, the budget is maintained, and the City is informed and involved on all decisions and aspects as the project is delivered. Timing is critical, and expedient managerial procedures will be a key factor for staying on schedule and within budget. Our construction phase services can include:

- Facilitate a pre-construction meeting to cover, at a minimum, the overall project objectives, responsibilities of key personnel and agencies, schedules, schedule of values, submittal procedures, correspondence, utility relocations, local agency permit requirements, RFQ/RFI processes, progress payments, change orders, safety issues, emergency response requirements, and all other pertinent topics.

CivilSource will provide opportunities to have the contractor's questions answered and will collect all of the required submittal items at that time. Meeting agendas and minutes will be prepared and distributed to all attendees.

- Coordinate weekly progress meetings with City staff and the contractor to update the status of the project and discuss the schedule, near-term activities, clarifications and problems which need resolution, coordination with other contractors, change order/submittal/RFI status, safety issues, OSHA visits and citations, etc. Coordination shall also include preparation of agendas and meeting minutes. Meeting minutes will be distributed to the contractor and City staff for comments within three (3) days and the final and approved minutes within two working days of receipt of comments.

- Immediately document and notify the City of any defects or hazardous conditions observed in the vicinity of the project site prior to, during, or after the construction work.
- Provide project coordination for project control during the construction period by monitoring the contractor's work progress, personnel, equipment and materials to ensure that adequate resources are available to meet the project schedule and that the contractor's work is in compliance with the contract documents. Coordination will include ensuring that City activities (such as bus routes, street sweeping and trash pick-up) and responsibilities are addressed and appropriately scheduled so as not to affect the progress of the work.
- Require the contractor to maintain an updated set of drawings, specifications, addenda, bulletins, change orders, or other document updates at the jobsite. Updates shall incorporate modifications and changes from all sources such as submittals, RFIs, field orders, etc.
- Process RFIs and ensure timely distribution to and response by appropriate project team members (City staff, engineer, other agencies). Response to RFIs shall take no longer than seven (7) calendar days. We will coordinate all technical support and constructability reviews during preparation of responses to RFIs and maintain an RFI log to track closed and outstanding RFIs.
- Ensure an efficient submittal process, beginning with the contractor delivering a submittal schedule for review within 10 calendar days after the effective date of the construction contract. CivilSource will provide technical support during review of the submittal schedule (and at a minimum weekly thereafter) to ensure compliance with the contract documents and note any matters of concern to the City, such as potential impacts to schedule. We will monitor, process, and forward for approval all submittals and ensure timely distribution to and review by appropriate project team members (City staff, engineer, and other agencies).
- Review and recommend for approval the contractor's CPM baseline schedule and, upon acceptance, adopt for the remainder of the project. Monitor work progress in accordance with this baseline schedule on a daily, weekly, monthly basis to ensure the contractor maintains all milestone and critical-path dates. Indicated slippage will be addressed during the project meetings and written reports.
- Review and respond to requests for design revisions by the contractor. Provide recommendations and forward all responses for approval to the City and/or design engineer prior to transmitting to the contractor.
- Coordinate evaluation of and provide recommendations for "or-equal" or product substitution requests with the design engineer, City, vendors, manufacturers, and others.
- Initiate and review field orders when a change in the work is needed to maintain the design intent. We will issue field orders to the contractor and monitor the work for compliance. Changes will be logged and recorded in the record specifications and plans. If required, we will follow-up with a change order within 14 calendar days of mutual agreement with the contractor on pricing and conditions.
- Receive, evaluate for reasonableness and cost effectiveness, negotiate, and recommend for approval any submitted change orders by applying knowledge of prevailing wage rates, material unit cost guide publications, quantity take-offs, or other measures required in order to substantiate and/or negotiate change orders. Maintain a change order log to track executed and potential change orders and monitor the amounts against the total construction contract.
- Develop a cost control system to monitor actual versus estimated costs, differences will be included in weekly status meetings. For authorized work, accounting records will be maintained using contract unit costs. For any additional work, accounting records will reflect actual costs of time and materials.
- Review contractor(s) Safety Program for compliance with City standards as well as any OSHA regulations. Recommend contractor(s) submit site-specific safety plans that identify the risks and liability arising from specific operations relating to the project.
- Maintain a safe working environment. All CivilSource personnel will wear hard hats, safety vests, and rubber-soled shoes at all times while on-site.
- Create and maintain a daily account of all construction activities. Request, review, analyze, and use for reporting, the daily construction reports as generated by the contractor(s). This will be a vital source of information for identifying and reviewing potential delays, weather impacts, labor shortages, untimely deliveries of long lead items, and other factors that can lead to schedule and cost impacts. Adverse findings will be included in weekly status meetings.

- Review and forward for approval the contractor payment applications. Conduct the monthly “pencil draft” with the contractor to review the progress to date and verify that payment applications represent work in place and are in compliance with the accepted SOW and the requirements of the construction documents. Once the payment applications are reviewed and approved, and once we have verified that the contractor’s record drawings are current, the construction schedule is updated, and weekly certified payroll reports are submitted, we will forward to the City for approval.
- Enforce Labor Compliance requirements, including completion of federal Labor Compliance Pre-job checklist. CivilSource will ensure all certified payroll reports are submitted each month with the payment applications. We will use our in-house experts to review these reports, verify payroll amounts against wage reports, and then submit to City for filing. CivilSource will work with the contractor to correct any and all labor compliance violations.
- Ensure compliance with funding requirements set forth in pre-construction phase and assist City as necessary with reimbursement procedures.

#### **Inspection**

Detailed and accurate quality control inspection of the contractor's work is required for successful project completion. Our inspector will discuss any appropriate revisions to the contractor's methods and coordinate with the City's project manager and inspector at all times that work is progressing. Our inspection services can include:

- Review and become familiar with all contract- and construction-related documents, including plans and specifications, traffic control plans, construction schedules, construction sequences and permitting requirements; present any concerns during pre-construction meeting.  
Attend subsequent progress meetings to maintain communication regarding issues or problems. For all projects, maintain correspondence file and copy all contractor communications to City.
- Perform daily field and quality control inspections and measurements of the contractor’s work, submittals, and construction materials to ensure all conform to the contract documents, City codes and ordinances, “Greenbook” Standard Specifications, Manual of Traffic Controls for Construction and Maintenance Work Zones, Caltrans Construction Manual, and all other applicable codes and regulations. Health and safety measures will be strictly enforced to maintain a safe construction environment.
- Prepare daily reports detailing work completed and/or other activities for each day the contractor performs work. Daily reports will be kept in a bound notebook and will state at a minimum the date, weather conditions, traffic control measures taken, progression of work, materials used, and subcontractors, equipment and employees on site, and any major incidents/safety violations. We will also prepare reports of deviations and non-conformance to specifications and provide responses in accordance with the specification requirements. Notices of non-compliance will be immediately delivered to the contractor for any and all deviations.
- Perform weekly progress photos and a video survey at project initiation. We will perform and will require the contractor to perform, and will review for completeness and quality, the essential photographic logging as required in this project. Documentation will be used for monthly reporting to City, updates for informational websites, and documentation for any potential claims by contractor. Photos and a video survey will also ensure that the site is returned to its original condition at the end of the construction period.
- Maintain a digital photo library of significant construction activities. We will take additional photos to document differing site conditions, change orders and claim items. We will incorporate the photos taken by others in the overall photo documentation record of the project.
- Monitor utility coordination as set forth in pre-construction meeting reporting conflicts to City and recommending course of action.
- Ensure compliance to coordination plan set forth in project start-up to mitigate construction impacts to business and residents, altering and revising coordination plan as project demands require. As part of the coordination plan, monitor site safety, public safety and convenience, reporting problems to City.
- Ensure implementation of a traffic control plan that is in accordance with the latest “Work Area Traffic Control Handbook” (WATCH) manual requirements, the City's requirements, and the contract documents.
- Ensure compliance with funding requirements set forth in pre-construction phase, conducting field employee interviews as necessary and reporting resulting information to City. Provide complete

measurements and calculations to administer progress payments, ensure contractors submit certified payroll reports, and make recommendation for payments.

- Maintain a change order log to track executed and potential change orders and monitor the amounts against the total construction contract as well as times of dispute and notification, and action taken.
- Compile detailed punch-lists with City, consultants, and contractor. CivilSource will conduct a preliminary walk-through with the contractor to ensure there are no blatant issues and to generate a preliminary punch-list. After completion of the preliminary punch-list items, prepare the final punch list and coordinate with contractor for item completion. All punch-lists generated will include schedules for completion.
- Upon project completion, conduct final inspection, close-out permits including encroachment and construction/excavation, and prepare and submit as-built plans to City.

### *III. Post-Construction Phase*

CivilSource is committed to executing an expedient close-out schedule. We have had considerable success in outlining the requirements during the initial start of construction and monitoring progress on a monthly basis with milestones. Our philosophy on such projects is "close-out starts during pre-construction." Our efforts will begin at the outset to outline and anticipate all project close-out deliverables. Financial close-out is a critical activity and it is best to have the contractor negotiate final contract amounts once their subcontractors' scope of work is complete. Our post-construction phase services can include:

- Document and provide the results of the work to the satisfaction of the City. This may include preparation of field and final reports, or similar evidence of attainment of the Agreement objectives.
- Compile detailed punch-lists with City, consultants, and contractor. CivilSource will conduct a preliminary walk-through with the contractor to ensure there are no blatant issues and to generate a preliminary punch-list. After completion of the preliminary punch-list items, the project manager will conduct a punch-list walk-through with the consultants to generate a second punch-list, if required. After completion of the consultant's punch list items, the Project Manager will conduct the official punch-list walk-through with City staff and the engineer (and all subs if necessary) to generate the official and final punch list. All punch-lists generated will include schedules for completion.
- In the event contractor claims arise, act on behalf of the City to review, evaluate, negotiate and recommend rejection/approval of such claims by our in-house expertise. All potential claims will be identified, logged, monitored and reported immediately to the City. Monitor the collection and completeness of the close-out packages for all components, and then turn in the final project records and documents to the City.
- Investigate any claims for damages by private parties and respond in writing within two calendar days of receipt of claim. Responses will be coordinated with the City's project manager.
- Advise the City when it is appropriate to file the notice to completion based on all expired time and other conditions required.
- Review the contractor's final application for payment for completeness and forward to City for approval.
- Maintain all relevant records for a minimum three (3) years. Allow all authorized federal, state, county, and City officials access to all relevant contract records pertinent to these projects.

# Approach

Our primary approach is to serve as a direct extension (i.e. surrogate staff) of the City of Commerce staff. Our approach is based on strong commitment to total quality assurance and follows a proven path of work elements and tasks to ensure a successful project.

## Project Understanding

CivilSource understands that the City is seeking a professional consulting firm to provide on-call professional services for assistance with the completion of various planned projects. Although services cover several disciplines, CivilSource is proposing to provide services in only the ones we excel in. We propose to provide the City with construction management and inspection services. We have reviewed the City's approved list of upcoming capital improvement projects and are confident that we can assist the City in delivering these projects on schedule and budget.

CivilSource specializes in providing comprehensive engineering and construction support services to municipal agencies, and we have a comprehensive understanding of administering projects in compliance with state and federal funding requirements. We will manage all projects and assignments in a manner that will ensure timely completion within established time frames through appropriate and cost-effective use of resources.

Our staff is experienced in all aspects of capital improvement projects, especially those in areas of high political visibility and public interest. Important tasks such as planning, scheduling, and tracking tasks and milestones are routinely performed. We work together as partners with the City, public, other consulting engineers, regulating agencies, and contractors to complete the project on schedule and under budget. With an emphasis on communication, anticipation of problems, and problem solving, CivilSource will be a positive extension of the City staff.

## Approach

CivilSource's approach to construction support services is centered on our established policy of consistent and effective employee oversight. Though Ms. Amy Amirani, Principal of CivilSource, will be ultimately responsible for overall management of our resources, she depends on a carefully structured hierarchy to ensure quality control in construction management and inspection. The CivilSource management team (Ms. Amirani, Peter Salgado, and Safa Kamangar) will monitor projects continuously to verify that all personnel are performing within the guidelines of our established procedures, which are patterned after the Caltrans Construction Manual. CivilSource takes this a step further with implementing a proactive public relations program and a concerted effort to identify previously unforeseen potential claims.

## Communication

In order to maintain the highest quality work by our project management staff, the Project Manager will monitor the progress of all managers and inspectors through routine communications. Our Project Managers enforce the need to maintain an orderly and complete project file in conformance with the Caltrans Construction Manual, the basis for our standard filing procedures. The manual is also the basis for general communication and correspondence procedures. These procedures are applied to communication and correspondence with the entire project team. These expectations are well-known by our staff and routine contact provides verification of conformance.

## Schedule Control

Our construction management and inspection team gives considerable attention to monitoring schedules. We will coordinate, review, and make recommendations for changes to the Critical Path Method schedule generated by the contractor. As changes or discrepancies occur between the CPM schedule and as-built conditions, the project schedule and cost estimates will be modified and updated schedules formulated. We will review the Contractor's schedule on a weekly basis. In addition, we will maintain an as-built/working schedule to reflect as-built conditions to date. The as-built/working schedule in turn serves as a powerful tool in analyzing time extension/delay claims.



## Cost Control & Reporting

Cost Control is a key element of the project construction phase and must be thoroughly integrated with other control methods (scope change control, schedule control, and quality control) to ensure that the City receives proper value for all funds earmarked for the project. Key elements of our cost control program include: establishment and maintenance of a project budget, value engineering and constructibility reviews of project plans, sufficient vetting of owner requested or contractor generated changes, thorough review and evaluation of change order cost proposals, close monitoring of force account work, and regular maintenance of a change order log. CivilSource provides a monthly status report that includes work accomplished during the reporting period, work to be completed during the next reporting period, budget and schedule status, potential out-of-scope items, and a summary of issues and concerns pending resolution.

## Quality Assurance/Quality Control

To ensure contract compliance and avoid unforeseen issues, we will implement a comprehensive QA/QC program to be monitored by the Project Manager. Our process involves the following steps:

- We will perform a thorough review of the contract document provisions, including submittal requirements. In addition, we will be thoroughly familiar with the City's administrative policies; this responsibility includes: checking plans and specifications against requirements with which problems have occurred on similar jobs; comparing elevations, grades and details shown on plans as existing, with those at the actual site; reporting errors, omissions and deficiencies to the City; keeping a marked-up set of plans and specifications convenient for ready reference; and anticipating the contractor's operations by reviewing the plans and specifications for each operation.
- Before the start of construction, we will discuss with the contractor the definable features of work to ensure that documentation is complete, materials are on hand and that the workers understand the scope of work.
- At the onset of work, we will perform an initial inspection to determine whether or not the contractor thoroughly understands and is capable of accomplishing the work as specified. Safety is also checked for proper implementation. The construction inspector will perform follow-up inspections on a daily basis.
- We will conduct a monthly review of the as-built drawings and ensure that all items are considered in the changes of the record drawings, including: size, type and location of existing and new utility lines; layout and schematic drawings of electrical circuits and piping; verification of alignment and cross sections; and changes in location of equipment.
- Finally, we will review and approve the as-built drawings to complete the project turnover and begin the warranty period.

## Federal Funding Administration

For federally funded projects the City must comply with federal reporting requirements. Our team is experienced in complying with state and federal grant reporting and filing requirements, such as Community Development Block Grant, Section 3, Caltrans, EPA, State Water Resources Control Board, Energy Grants, etc. We pay close attention to these requirements and deadlines so that project funding remains unaffected and so that file audits are conducted quickly and efficiently. Our efforts can include:

- Provide all services in compliance with Caltrans Local Programs Manual and the City's QAP;
- Completion and submittal of Award Packages, DBE and EEO reports, and Final Reports;
- Maintaining quantity calculations to support payments to Contractor;
- Using a uniform filing system consisting of change order documentation, material testing reports, Buy America Requirement Reports, DBE reports, daily inspection reports, progress payments, CPM schedules, meeting minutes, SWPPP documents; and labor compliance documents;
- Ensuring completion of as-builts;
- CivilSource will also be available to assist the City during any project audits conducted by state and/or federal agency personnel.

# Rate Schedule

Effective January 1, 2017 through December 31, 2018. If contract assignment extends beyond that date, a new rate schedule will be added to the contract.



## ENGINEERING SERVICES

### HOURLY RATE

Principal	\$185
Project Manager	\$160
Quality Assurance Manager	\$150
Senior Engineer	\$135
Project Engineer	\$130
Traffic Engineer	\$125
Associate Engineer	\$115
Assistant Engineer	\$110
Engineering Technician	\$90
Designer	\$110
CADD Drafter	\$85
Administration	\$75

## MUNICIPAL SERVICES

### HOURLY RATE

Principal	\$230
Project Executive	\$195
Program/Project Director	\$175
Assistant Project Manager	\$135
City Engineer	\$135
Plan Check Engineer	\$120
Planner	\$100
Public Works Technician	\$90
Permit Technician	\$65

## CONSTRUCTION SERVICES

### HOURLY RATE

Senior Construction Manager	\$165
Construction Manager	\$145
Project Manager	\$135
Resident Engineer	\$140
Office Engineer	\$120
Project Controls Engineer	\$100
Labor Compliance/Documents Control	\$78
Construction Observer (Non Prevailing Wage)	\$98
Building Inspector (Non Prevailing Wage)	\$85
Surveying (2-person survey crew)	\$250*

## REIMBURSABLE EXPENSES

### COST

Reproduction	Cost
Consultant Services	Cost + 15%
Automobile Transportation	\$.54 per mile
Delivery, Freight, Courier	Cost
Agency Fees	Cost
Commercial Travel	Cost

\*Assumes prevailing wages are applicable for field work.



**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 CivilSource / NV5, 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 CivilSource / NV5, 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.

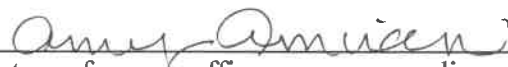
If there has been a determination that the applicant, or any individual associated with the

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 16th day of March 2018 at Irvine, California  
(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]

N.L. STATE OF CALIFORNIA )  
)  
SS: COUNTY OF ~~LOS~~ )  
~~ANGELES~~ Orange )

Subscribed and sworn to (or affirmed) before me this 16 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)



Nathan Lopez  
(Signature of Notary)

Nathan Lopez  
(Typed Name of Notary)

\* See Attached Jurat

END OF DOCUMENT

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

**GOVERNMENT CODE § 8202**

- ☒ See Attached Document (Notary to cross out lines 1–6 below)  
☐ See Statement Below (Lines 1–6 to be completed only by document signer[s], *not* Notary)

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

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 16 day of March, 2018

by AMY AMIRANI

(1) \_\_\_\_\_

(and (2) \_\_\_\_\_),

Name(s) of Signer(s)

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

Signature Nathan Lopez

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 reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Supplemental Questionnaire Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**CSG CONSULTANTS, INC.**

**PROFESSIONAL SERVICES AGREEMENT**  
**ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and **CSG Consultants** ("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 **Nourdin Khayata**.
- 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:
- Nourdin Khayata**  
**Vie President**  
**CSG Consultants**  
**3707 W. Gardena Grove Blvd., Suite 100**  
**Orange, CA 92868**
- 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

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Oralia Y. Rebollo, Mayor



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Nourdin Khayata, Vice President

Attest:

---

Lena Shumway, City Clerk

Approved as to Form:

---

Noel Tapia, City Attorney

## **Exhibit A**

### **Scope of Services**

#### **On-Call Construction Management and Inspection Services**

As requested by the City, CSG may provide on-call services/personnel including full construction management teams, resident engineers, assistant resident engineers, office engineers, and construction inspectors based upon the need and particular scope of the project.

### **APPROACH TO CONSTRUCTION MANAGEMENT AND INSPECTION**

#### **Overview of Construction Management and Inspection**

CSG's construction management and inspection resources available to the City include resident engineers, assistant resident engineers, office engineers, project managers and engineers, and inspectors, based upon the need and experience required for the various projects. CSG staff is familiar with local, state, and federal requirements and has experience performing value engineering, constructability reviews, change orders negotiations, and project cost estimating, in addition to construction management and inspection best practices.

#### **Pre-construction Phase**

During the preconstruction phase, CSG will be responsible for the elements of bid process assistance, pre-construction meeting attendance and coordination with utility companies.

#### **Construction Phase**

During the construction phase, CSG will be responsible for the elements, tasks and work products listed below:

- |   |   |   |
|---|---|---|
| • Providing detailed documentation using the City-preferred form of documentation | • Tracking status of contract change orders   | • Approving "Schedule of Values" submitted by contractor            |
| • Daily inspector's report  | • Tracking status of RFI's  | • Tracking progress pay estimates and overall project budget        |
| • Tracking of any subcontractor's work  | • Performing field inspections and ensuring Quality Control- Daily Inspector Report | • Monitor Contractor's Performance                                  |
| • Any safety issues regarding contractor  | • Maintaining photos and videos   | • Providing monthly reports documenting construction progress, etc. |
| • Maintaining project files   | • Record file tracking potential claims   | • Providing expenditure report                                      |
| • Date and time stamping of all documents   | • Tracking weekly statements of working days  | • Managing Change Orders  |
| • Maintaining Submittal Logs  | • Tracking Buy America and other contract requirements                              | • Managing submittals and monitoring designers' review activities   |
| • Maintaining Submittal Distribution Lists  | • Documenting contractor's detours, lane closures and staging plans                 | • Managing claims   |
| • RFI logs: submittal, review, and return   | • Documenting contractors' labor compliance performance                             | • Requests for Information (RFI's)                                  |
| • Correspondence logs and tracking  | • SWPPP compliance  | • Progress payments   |
|   |   | • Punch list system   |

#### **Post-construction Phase**

**Project Close-Out-** A project is only truly completed when: 1) all construction is complete and the project is closed, including the punch list items; 2) the final payment is approved and accepted; and 3) the project paperwork is completed and archived. Items performed under this task include:

- Completion of all project documentation, change order summary, final detailed estimate, project acceptance documentation, and a claims management/resolution
- Final walkthrough involving the contractor, the City, engineering and maintenance staff, the designer and other relevant stakeholders
- Preparation of final payment estimate and resolving all the contractor's exceptions to proposed final estimate
- Preparing a final construction project report per Chapter 17 of the LAPM on federally-funded projects
- Preparation of final "As-Built" records including record drawings and all discovered utility locations and changes
- Completion of all items on the final construction punch list

Additional essential duties and responsibilities may include, but are not limited to, the following:

- Provide technical expertise to advise the City on matters involving the practice of construction.
- Review plans, specifications, and estimates for public works and/or development projects and provide comments to City regarding work quality and quantity.
- Perform construction inspection on public works and/or development project construction, representing the City's best interests to verify that City standards and project plans and specifications are followed.
- Coordinate all needed activities on the project including scheduling material testing, reaching out to utility companies, coordinating and discussing submittals and RFI's with the design engineer, and reach out to stakeholders when applicable
- Perform field measurement of quantities of work performed by contractors.
- Maintain daily inspection records for construction contract and force account work.
- Inform the project/resident engineer of any field conditions that are not accurately reflected in the construction plans and specifications and assist in preparing contract change orders by providing accurate quantities.
- Review plans and provides feedback to design engineers, developers and contractors to create high quality, technically sound public works projects that meet City standards, needs and practices.
- Respond to public inquiries; coordinate with the contractor and to inform the public of construction impacts.
- Verify contractor labor compliance.
- Ensure quality control through daily inspections of construction materials and methods of placement.
- Maintain records in a state that is ready audits from the beginning of the project through project close-out.
- Contract administration.
- Review and approve contractor submittals, change order requests, and progress payments.
- Provide constructability review, cost estimate evaluation, and value engineering on projects prior to public bidding.
- Review of Requests for Information ("RFIs").
- Evaluation of potential change orders, and assistance with negotiations.
- Observation of the construction work for conformance with Construction Documents.
- Preparation of as-built record drawings

## Compensation / Fee Schedule

CSG services are billed on a time-and-materials basis according to our Standard Rates, shown below.

Professional Engineering Services	Hourly Rate
Construction Inspector	\$125
Engineering Designer	\$125
Senior Management Analyst	\$135
Assistant Resident Engineer	\$150
Assistant Engineer	\$135
Associate Engineer	\$155
Senior Construction Inspector	\$145
Senior Engineer	\$180
Resident Engineer	\$180
Structural Representative	\$180
Senior Project Manager	\$185
Principal Engineer / Project Manager	\$200
Assistant Project Manager	\$145
Senior Principal Engineer	\$225
Two-Person Survey Crew	\$300

*All hourly rates reflect overhead costs including but not limited to salaries, benefits, Workers Compensation Insurance and administrative costs such as local mileage, copying, fax, telephone, mail, in-house printing, software, and computer usage. Reproduction and any subconsultants (if required) are billed at cost plus 15%. Rates will remain effective through June 30, 2018. Rates are subject to an annual increase based on CPI. Should the scope of work change or circumstances develop which necessitate special handling, CSG will notify the jurisdiction prior to proceeding.*

**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 CSG Consultants, 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 CSG Consultants, 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

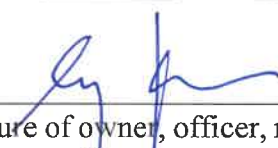
applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (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 19th day of March, 2018 at Foster City, 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]

## 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 San Mateo

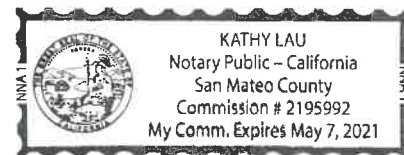
On March 19, 2018 before me, Kathy Lau, Notary Public  
(insert name and title of the officer)

personally appeared Cyrus Kianpour,  
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.

Signature [Signature] (Seal)





**ON-CALL PROFESSIONAL SERVICES  
SUPPLEMENTAL QUESTIONNAIRE**

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

**III. Civil Litigation History:**

- (1) Name of case: City of Half Moon Bay v. CSG Consultants, Inc. et al.
- (2) Court case identification number: 17CIV00387
- (3) Jurisdiction in which it was filed: County of San Mateo
- (4) Outcome of the litigation: Pending. The City of Half Moon Bay filed against the City's contractor, the Contractor's bonding company and CSG alleging design defects in the construction of a pedestrian trail. CSG maintains that its design of the trail was not defective. CSG further alleges the contractor failed to properly test the materials used. CSG continues to provide services to the City and has had several contracts renewed since litigation began.

END OF DOCUMENT

Dudek

**PROFESSIONAL SERVICES AGREEMENT**  
**ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and Dudek ("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 **George Litzinger**.
- 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:
- George Litzinger**  
**Principal In Charge**  
**Dudek**  
**1645 S Rancho Santa Fe Road, Suite 201**  
**San Marcos, CA 92078**
- 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.

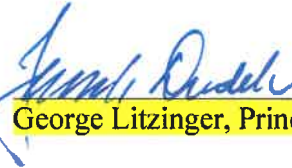
**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

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

CITY OF COMMERCE

CONTRACTOR

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

  
**Dudek**  
**Frank Dudek**  
**President**  
**11-8-17**  
George Litzinger, Principal In Charge

Attest:

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

Approved as to Form:

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

# Exhibit A

## Scope of Services

### Construction Management

#### Introduction

Our philosophy is that obtaining quality construction is a combined responsibility of the construction contractor and the construction team. Our mutual goal must be a quality product conforming to the contract requirements. A cooperative and professional working relationship must be established to realize this common goal. The plans and specifications establish the standards the construction team will use to monitor the project's progress. Quality assurance (QA) is the process by which the construction manager (CM) and inspector delivers the end product, using plans and specifications, the contract, conditions of approval, and permits. The process starts well before construction and includes reviews of the plans and specifications for bidding and constructability.

The key to success for the City's construction projects is to develop a clear understanding of the project and issues that will be encountered during construction. The CM's role is to understand and interpret each project's plans, specifications, and permits to ensure compliance. They must be able to anticipate and have knowledge of the challenges the contractor will face and have the ability to proactively discuss and resolve them with the contractor, engineers, property owners, and the public-at-large to avoid negatively impacting the project schedule and budget.

#### Communications in Writing

Paperwork is critically important in construction management. All communication will be provided to effected personnel in writing. Our CMs maintain daily logs, complete incident reports, and photograph elements of a project. CMs will provide monthly progress pay estimates, contract change orders, labor and equipment records, personnel records, and other general correspondence that will ensure the effectiveness of your projects. We have found this philosophy helps alleviate any miscommunication or forgotten responsibilities.

### Construction Management Approach

The Dudek team approach is to provide the City with construction management and inspection services to facilitate a project that is completed on time, within budget, and to the City's standards. We will listen to the City closely to develop a complete understanding of the goals and needs by attending all pre-construction meetings from the outset.

We believe to develop a team that works together seamlessly, roles and task assignments must be clearly defined. Although not all inclusive, responsibilities for the CM and inspectors are detailed as follows:

#### Construction Manager Responsibilities

The CM will be responsible for overall QA and coordination of the project and will work closely with the City, contractor, and inspectors to resolve day-to-day construction issues. The CM will also ensure project issues are identified and resolved quickly. Project issues will be organized on a critical action item report, which will detail administrative, design, construction, environmental, and coordination issues that arise. Each action item will be assigned to project personnel with a target date to complete or resolve. The report will be updated at the

## Exhibit A - Scope of Services

weekly construction management staff and contractor progress meetings and will be included in the monthly progress report.

The CM will be responsible for tracking change orders and reviewing submittals and RFIs. He will also be responsible for directly managing the inspection and testing on the project.

One of the most important duties for the CM will be making sure the contractor stays in constant compliance with all SWPPP requirements by making sure the inspectors check and report on the status of SWPPP on a daily basis during the rainy season.

The CM will meet the City's representative to discuss the plan for the upcoming work on what may affect the public or traffic. She or he will also be available to meet with community groups to develop methods to inform the public, agencies, community groups, and contractors in the area regarding the work schedule. There are a number of issues that the community will be watching closely on construction projects: work hours, storm water control, noise control, dust control, and environmental measures, to name a few.

The CM will coordinate with the City all tie-ins and schedule a final walk through. We will make sure the project is complete and acceptable prior to scheduling a final punch list walkthrough with the City. The CM will review and recommend final payment and release retention once all outstanding items are completed to the satisfaction of the City. At the completion of the project, we will review and certify the as-builts, draft final change orders, and prepare a final construction summary report for the project.

### Inspector Responsibilities

The inspectors assigned to the City will be on site daily during working hours and whenever work is performed outside of normal working hours. They will be available by cell phone whenever not at the site to answer any questions and resolve issues. The inspector will be the key point of contact for the contractor's project manager and superintendent during the course of the work. The inspector will not direct the contractor's work but will facilitate the contractor's efforts by anticipating issues that might affect the progress of the work.

Dudek employs a state-of-the-art photo documentation system using commercial-standard photo management software. Upon beginning each day's fieldwork, our personnel will download the day's images from each digital camera to the computer network located in the field office. Using these images, the construction inspector will review completed work with the City's plans and specifications.

The inspector will examine the site daily, manage subconsultants, and conduct weekly progress meetings with the contractor. One of the key activities is the weekly progress meeting with the contractor. This is where old and new business issues are discussed, such as action items developed, progress to date is reviewed in detail, a contractor's three week look-ahead schedule is developed, and items from the City or other consultants discussed. A description of these meetings and the inspector's role are provided as on the following pages.

Weekly progress meeting minutes will be written and will designate who is responsible for action item results, and will be distributed to all in attendance and the City within 48 hours of the meeting. These action items, chronologically listed by the meeting number, are tracked until they are resolved.

If work is non-conforming per the specifications, the inspector will issue a written Notice of Non-Compliance report for any work installed by the contractor that does not comply with the project plans and specifications. This will require a written response from the contractor and the issue will be tracked weekly until it is resolved to our satisfaction. The inspector will also prepare a list of items for correction and redline as-built plans as needed.

## **Exhibit A - Scope of Services**

The inspector will assist with a submittal review meeting and with expediting the submittal turnaround process. He or she will conduct a submittal review meeting with the contractor for designated critical submittals to insure they are returned for prompt material procurement.

### **Inspection Forms / Checklist**

Documentation is critically important in construction and all communication will be provided to effected personnel in writing. Our inspectors maintain daily logs, complete incident reports, and photograph elements of a project. We assist the City with progress pay estimates, contract change orders, labor and equipment records, personnel records, and other general correspondence that will ensure the effectiveness of the projects.

### **Traffic Control**

The inspector will review traffic control plans and follow the requirements as stipulated by the City's traffic engineer and according to the latest California MUTCD and Work Area Traffic Control Handbook requirements.

### **Storm Water (SWPPP) Inspection and Compliance**

The inspector will inspect the contractor's SWPPP installation, erosion, tracking, potential discharges every day for compliance with the NDPES, and approved Project SWPPP plan. The contractor will be notified immediately in writing of any corrections that need to be made. The inspector will stay up to date on all required reports and inspect the contractor's SWPPP reports to ensure they are up to date and accurate.

### **Progress Payment**

The Dudek team realizes the importance of an accurate timely review of the progress for each month. The on-site inspector will field measure pay quantities in accordance with Greenbook standards. We will meet with the contractor and discuss the status of pay quantities, schedule of values (if there are any lump sum bid items), and review the contractor's as-builts at the end of the month. The on-site construction inspector will then make a recommendation to the City for the amount of the monthly progress payment application.

### **Project Management and QA/QC**

The construction management team and contract manager will establish and implement a QA/QC Plan organized as follows:

1. Organization and Responsibility
2. Execution and Schedule
3. Procedural Requirements
4. Requirements for Subconsultants
5. Project Quality Management Audits.

The CM is committed to supporting construction of your projects on behalf of the City. Regular meetings with the contractor and the use of a three-week schedule for field work should prevent any delays due to inspection needs. Dudek's approach to quality assurance and quality control is directed toward ensuring the quality of the final product meets the design drawings and specifications while increasing management's awareness and confidence in the details of the entire fabrication and construction process.



## Exhibit A - Scope of Services

Dudek will employ proven methods for the project-specific quality assurance and quality control program for the City's projects. This program will largely consist of existing corporate procedures and standards from the company's Total Quality Program, tailored to match the unique requirements as indicated in the City's overall QA/QC Plan. Our approach includes a mixture of senior staff review, constructability evaluation and operability/maintainability evaluations throughout the process. The focus on achieving a consistent high-quality product is carried through the review of contractor's procedures, submittal review, shop and field inspections, as well as field and laboratory testing to ensure that quality materials and equipment are delivered and constructed to the project specifications and drawings.

### Quality Assurance Inspection Services

Inspectors will provide technical inspection at each job site where the contractor is performing work to ensure compliance with the contract documents. They will coordinate material deliveries, inspect materials as they arrive on site, and verify that all materials and equipment are properly stored. Inspectors will prepare daily reports as required by the project scope of work and the City's standards.

Inspection staff will note and document deviations in the work. The City's PM and the contractor will be notified when deviations are observed. When needed, we will issue the contractor a Notice of Non-Compliance and follow-up to resolve any such notices.

### Project Management

Key elements of our project management approach to keep project deliverables on time and error-free are:

- Assigning Principal-in-Charge George Litzinger, PE, who has over 30 years' public and private project experience
- Assigning personnel with directly relevant experience and training related to each task assignment by the City
- Using senior-level staff for quality assurance/quality control of work products before they are delivered to the City
- Maintaining open and effective lines of communication with the City regarding a project's status
- Early involvement in development, planning, staffing, and implementation of project work.

Prior to initiating contract management services in support of each project request, Mr. Litzinger and his team will develop a project plan based on five elements: team, budget, schedule, communication, and QA control.

Each element will be part of the management approach and will be used for allocation of staff resources, establishment of budget and schedule milestones, and assessment of progress during the course of work.

**EXHIBIT B**

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

Dudek Contract No. \_\_\_\_\_ Date \_\_\_\_\_

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			
Constr. Manager	\$ 150.00	\$ 160.00	\$ 170.00	Nov. 10, 2017	Nov. 10, 2019	\$ 160.00	0.00% 0.00% 0.00%	
Inspector	\$ 130.00	\$ 140.00	\$ 150.00	Nov. 10, 2017	Nov. 10, 2019	\$ 140.00	0.00% 0.00% 0.00%	
*Names available upon request							0.00% 0.00% 0.00%	
							0.00% 0.00% 0.00%	
							0.00% 0.00% 0.00%	
							0.00% 0.00% 0.00%	

- 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

Contract No.

Date \_\_\_\_\_

<b>SCHEDULE OF OTHER DIRECT COST ITEMS</b>											
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
None			\$ 0.00	None			\$ 0.00	None			\$ 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				\$ 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 ODC <sub>s</sub> =			\$ 0.00	SUBCONSULTANT #1 ODC <sub>s</sub> =			\$ 0.00	SUBCONSULTANT #2 ODC <sub>s</sub> =			\$ 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 DUDER, 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 Duoik, 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 26<sup>TH</sup> day of MARCH 2018 at ENCINITAS, CA  
(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]

STATE OF CALIFORNIA )

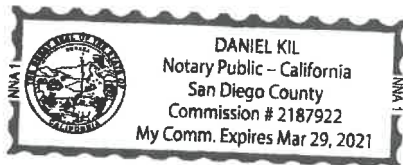
SS: COUNTY OF LOS )

ANGELES )

Subscribed and sworn to (or affirmed) before me this 26 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)

DANIEL KIL, NOTARY PUBLIC

(Typed Name of Notary)

END OF DOCUMENT

# On-Call Professional Services Supplemental Questionnaire

## I. Criminal Convictions

None

## II. Non-Collusion Declaration

So Declared

## III. Civil Litigation History

### City of Carlsbad vs. Ledcor Construction Inc.

On June 13, 2016, the City of Carlsbad filed a civil complaint in California Superior Court, County of San Diego, against Ledcor Construction Inc. Dudek was named as a co-defendant. The suit is related to construction of the City's First Responder Training Center. Dudek served as construction manager for the City on the project. The case is pending.

Case Title	<i>City of Carlsbad vs. Ledcor Construction Inc.</i>
Case Number	37-2016-00019850-CU-CD-CTL
Case Location	San Diego County
Outcome	Pending

## IV. False Claims

None



**Elie Farah, Inc.**

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and Elie Farah, 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 Elie Farah.
- 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:
- Elie Farah  
Principal Engineer  
Elie Farah, Inc.  
1593 Liberty Drive  
Corona, CA 92881
- 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

  
\_\_\_\_\_  
Elie Farah, Principal Engineer

Attest:

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

Approved as to Form:

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

## **EXHIBIT "A"**

**Elie Farah Inc.**  
Certified Small Business Enterprise #1443340  
Civil and Traffic Engineering  
Land Surveying & Construction Management  
RCE 42080, TR 1926  
LS 8258, REB1095310  
1593 Liberty Drive, Corona, CA. 92881  
Tel. (951)-898-0772, Fax (951)-278-4110  
email: [efarah@eliefarahinc.com](mailto:efarah@eliefarahinc.com)  
Web: [ElieFarahInc.com](http://ElieFarahInc.com)

### **Scope of Services**

The services to be provided include, but are not limited to:

#### **PRE-CONSTRUCTION SERVICES**

- ✓ Meet with City staff to discuss the project plans, specifications, budget, Schedule and any other issues.
- ✓ Review project plans, specifications, technical report, cost estimate, budget, Schedule. Check for quantity discrepancies, potential conflicts, constructability, and consistency between plans, specifications, and pay items.
- ✓ Review project schedule & insure that it is compatibility with the proposed work.
- ✓ Make recommendations or revisions to the City.
- ✓ Review the budget & insure that sufficient funds are available for the construction including contingencies.
- ✓ Meet with the City, Caltrans for any issues raised during PS&E review that may change scope or limits.

#### **BID PROCESS**

- ✓ Check that the contractor met any required DBE portion of the contract and if contractor does not meet the goal, check the "good faith effort documentation" have been submitted and is adequate.
- ✓ Develop Contractor pay schedule and other procedural items.
- ✓ Coordinate a pre-construction meeting to include Contractor, City staff, Caltrans, Utility Companies, Geotechnical, design engineer, inspector, local police, etc....
- ✓ Prepare Meeting minutes and distribute to all attendees and other that are affected by the work.

#### **PROJECT ADMINISTRATION**

- ✓ Set up filing system per LAPM
- ✓ Resident Engineer (RE) Submits Award package to Local Assistance office
- ✓ RE to Insure that all Labor Compliance postings are in place.
- ✓ RE to Insure that Daily reports are produced by inspector.
- ✓ Prepare weekly status reports and statements of working days

## **EXHIBIT "A"** **(CONTINUED)**

- ✓ RE to Perform random interviews for Labor Compliance
- ✓ Schedule compaction testing and keep log of all tests
- ✓ RE to Check certified payroll for Labor Compliance
- ✓ RE to create payment requests from Contractor after verification and approval by inspector
- ✓ RE to submit reimbursement documents on behalf of RCTC
- ✓ Produce punch list to contractor and insure that is completed.
- ✓ RE to produce final billing to the City
- ✓ RE to submit completion package to Local assistance for approval after City acceptance and release of retention to contractor

### **CONSTRUCTION MANAGEMENT**

- ✓ Deliver project services in accordance with the LAPM and Caltrans Construction Manual.
- ✓ Manage and coordinate all aspects of the project inclusive of services identified in the RFQ.
- ✓ Conduct a pre-construction meeting and weekly construction meetings with the contractor, City, and other involved parties. Prepare and distribute meeting agendas and minutes.
- ✓ Coordinate with City staff, contractor, agencies, and project stakeholders.
- ✓ Prepare weekly status reports and statements of working days.
- ✓ Coordinate design changes.
- ✓ Participate in field meetings and document issues, findings, direction, changes, etc. and develop solutions.
- ✓ Participate in public outreach activities.

### **SCHEDULE AND BUDGET**

- ✓ Deliver project on time and within budget.
- ✓ Prepare and monitor construction schedule and update regularly.
- ✓ Prepare change orders in the standard City approved format.
- ✓ Maintain an accounting of construction costs, including approved change orders.
- ✓ Review payment requests, make payment recommendations, and prepare progress payments in City approved format.
- ✓ Prepare invoice to City with all progress payments.

### **MISCELLANEOUS**

- ✓ Review and coordinate approval of shop drawings with the design Consultant.
- ✓ Review and approve material submittals.
- ✓ Log, track, and process submittals, Requests for Information (RFIs), Requests for Changes (RFCs), Contract Change Orders (CCOs), field directives, Notices of Potential Claim (NOPCs), Non-Conformance Reports (NCRs), construction schedule, and detailed traffic control plan.
- ✓ Provide City with as-built and electronic set of drawings at project completion.
- ✓ Monitor materials documentation and testing results, as well as enforce corrections.
- ✓ Conduct labor compliance per LAPM requirements.
- ✓ Review and approve contractor's safety program per Federal and State requirements.
- ✓ Review and respond to all requests for clarification.

## **EXHIBIT "A"** **(CONTINUED)**

- ✓ Review and approve traffic control plans.
- ✓ Process all project documentation per City and Caltrans requirements, and standard format.
- ✓ Maintain project files per LAPM guidelines.
- ✓ Other project contract and construction management responsibilities as assigned.
- ✓ Assist City Staff in gaining familiarity with federal project administration

### **LABOR COMPLIANCE**

- ✓ Prepare inspector's daily reports which note employee, labor classifications, hours worked, and equipment working on the project. Ideally, the number of employees, names, classifications, and hours worked would be noted on each daily report.
- ✓ Conduct spot interviews with employees on the project. A form similar to, or State Form HC-0031 will be used ("Employee Interview: Labor Compliance/EEO").
- ✓ Maintaining written evidence of apprentices employed on the project.
- ✓ Ensuring that the contractor submits certified payrolls and/or owner operator listings (as appropriate) for their work and from all subcontractors or equipment rental companies who perform work on the project. Every laborer or mechanic performing work on the project must appear on either a certified payroll or owner operator list.
- ✓ Spot checking the payrolls or listings to ensure that at least the applicable Davis-Bacon or State prevailing wage rates as referred by the Special Provisions are paid.
- ✓ Cross checking reports, interviews, payrolls and wage rates in order to determine the contractor's and subcontractor's compliance. Comparing all force account or day labor work to certified payrolls. Employees' names, classifications, and wage rates should match.
- ✓ Ensuring that the contractor posts all specified posters, notices, wage determinations, etc. at the job site.

### **PROJECT CLOSEOUT**

- ✓ Coordinate a final walk-through with all affected stakeholders, prepare punch list, certify completion of the project, and recommend acceptance.
- ✓ Transmit Contractor's approved Record Drawings (As-Built) to the City.
- ✓ Finalize record drawings, contract bid items, claims, and change orders and punch list items.
- ✓ Prepare all final reports, including report of completion for acceptance of the Project.
- ✓ Finalize and deliver all construction files to City for archives.
- ✓ Make revisions to drawing in Autocad (if original plans are provided in Autocad). Provide electronic version of all drawings.
- ✓ Address any unresolved issues including, but not limited to, change orders, claims, etc.
- ✓ Complete documentation as required by City, Caltrans and the LAPM.

### **CONSTRUCTION OBSERVATION**

- ✓ Provide a Public Works Inspector as necessary to coordinate and manage all aspects of the construction work.

**EXHIBIT "A"**  
**(CONTINUED)**

- ✓ Coordinate any "Specialty Inspection and Testing" for pavement/materials that may be required per LAPM and QAP. (NOTE: The City may award a separate contract with a materials testing and inspection firm if such services cannot be provided by the consultant).
- ✓ Review of contractor's construction survey and staking.
- ✓ Site inspection of all necessary construction components.
- ✓ Inspection and reports for maintenance of traffic during construction.
- ✓ Public involvement and notification. Ensure that all notices (including no parking notification) are posted or distributed in accordance with the project's Plans and Specifications. Ensure contractor's coordinate with local residents, schools and businesses, and attendance of public meetings related to the project.
- ✓ Review, collect, and maintain materials receipts and logs.
- ✓ Ensure that all federal, state, and local project permit requirements are followed.
- ✓ Ensure utility coordination.
- ✓ Schedule regular site meetings (if required).
- ✓ Attend meetings as requested in contract documents and as requested by the City and/or Construction Manager; such as progress billing review meetings, specification review and project coordination meetings.
- ✓ Maintain inspection related documentation which shall include daily reports, inspection memos, notices of not compliance, logs, project photos, and as-built drawings per LAPM guidelines.
- ✓ Assist Construction Manager with Review contractor change order requests, submittals, RFIs and payment requests.
- ✓ Review contractor's pay requests and prepare necessary documentation for submittal and approval by the City.
- ✓ Conduct project walk-through(s) and preparing punch list(s).
- ✓ Maintain proper project files and documentation and Coordinate close out of the project, codes, standards and requirements
- ✓ Present to the City a complete project close out file.
- ✓ Coordinate with City staff, including the Sheriffs/police Department, Fire Department, Transit, utility companies, Caltrans, and other project stakeholders.
- ✓ Attend public outreach activities.
- ✓ Coordinate construction activities inclusive of temporary parking restrictions, temporary traffic control, etc.
- ✓ Complete daily measurements of quantities of work with the contractor and daily inspector reports.
- ✓ Provide daily reports to City staff on a weekly basis.
- ✓ Attend all project meetings such as preconstruction, field, and progress meetings.
- ✓ Provide complete and documented measurements and calculations to administer progress payments, change orders, extra work, etc.
- ✓ Prepare in-progress punch lists at the completion of each phase of the project (i.e. disabled access ramps, traffic signal upgrades, pavement rehabilitation, etc.)
- ✓ Ensure project construction in accordance with approved PS&E, City standards, and Standard Specifications for Public Works Construction.
- ✓ Ensure all construction activities are witnessed. If deemed necessary, inspection for night work will be performed.
- ✓ Ensure compliance with the SWPP/ BMP program.



**EXHIBIT "A"**  
**(CONTINUED)**

- ✓ Inspect materials and equipment upon delivery for compliance with construction contract documentation.
- ✓ Each working day, meet with the Contractor to review proposed work plans, including specific details that may affect progress. Inform Project Manager of any work which may result in a noteworthy impact to City.
- ✓ Closely monitor compaction, material, and other necessary testing results and require the Contractor to provide corrective measures to achieve compliance.
- ✓ Maintain copies of all permits needed to construct the project and enforce special requirements of each.

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

Note: Mark-ups are Not Allowed

Consultant or Subconsultant

Elie Farah Inc

Contract No. \_\_\_\_\_

Date 11/3/2017

Fringe Benefit 0 % + Overhead 0% + General Administration 120 = Combined Indirect Cost Rate (ICR) 120 %  
 (= 0% if Included in OH) (= 0% if Included in OH)

FEE % = 10.00%

**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			
PROJECT PRINCIPAL CM/PM	\$155	\$155	\$155	12/1/2017 12/1/2018			\$ 155.00
RESIDENT ENGINEER	\$145	\$145	\$145	12/1/2017 12/1/2018			\$ 145.00
OFFICE ENGINEER	\$119	\$119	\$119	12/1/2017 12/1/2018			\$ 119.00
PROJECT INSPECTOR				12/1/2017 12/1/2018			\$ 110.00

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate \* (1 + ICR) \* (1 + Fee). Agreed upon billing rates are not adjustable for the term of contract.

3. For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

4. \*\* Before EFl can use unlisted personnel, he/she will be approved by the City Project Manager and their hourly rates will be agreed to prior to the start of work.

## NOTES:

\* Denote all employees subject to prevailing wage with an asterisks (\*)

\* For "Other Direct Cost" listing, see page 2 of this Exhibit

**EXHIBIT 10-H COST PROPOSAL (EXAMPLE #2) PAGE 2 OF 2**

**SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)**

**CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

Consultant or Subconsultant

Elie Farah Inc

Contract No.

Date 11/3/2017

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
Special Tooling				Special Tooling				Special Tooling			
A.				A.				A.			
B.				B.				B.			
C.				C.				C.			
Travel				Travel				Travel			
A.	Mile	\$0.55		A.				A.			
B.				B.				B.			
C.				C.				C.			
Printing & Shipping											
	Mylar	\$25									
	Bond	\$4									
PRIME TOTAL ODCs =			\$0	SUBCONSULTANT #1 ODCs =			\$0	SUBCONSULTANT #2 ODCs =			\$0

IMPORTANT NOTES:

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., 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 ELIE FARAH 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 ELIE FARAH 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.

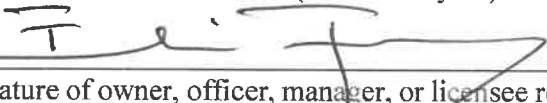
If there has been a determination that the applicant, or any individual associated with the

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<sup>th</sup> day of MARCH at THE CITY OF CORONA  
(month and year) (city and state)

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

[NOTARY ACKNOWLEDGEMENT TO FOLLOW]

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 )  
 )  
SS: COUNTY OF ~~LOS~~ )  
ANGELES *Riverside* )

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)



*Sarai Torreblanca*  
(Signature of Notary)

Sarai Torreblanca  
(Typed Name of Notary)

END OF DOCUMENT

**Ghirardelli Associates, Inc.**



**PROFESSIONAL SERVICES AGREEMENT**  
**ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and Ghirardelli Associates ("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 **Randall Bruner**.
- 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:
- Randall Bruner**  
**Executive Vice President**  
**Ghiradelli Associates**  
**9241 Irvine Blvd., Suite 150**  
**Irvine, CA 92618**
- 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

 1/11/18  
Randall Bruner, Executive Vice President

Attest:

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

Approved as to Form:

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

## Scope of Services

On-call construction management services described in the RFP requires flexibility and responsiveness, and the technical and management know-how to meet and overcome challenges. Since our inception in 1999, Ghirardelli Associates has managed hundreds of on-call services contracts and is keenly familiar with the needs of construction CIP programs and performing construction management services. We understand how to administer on-call contracts and importance to work as an integrated team with the City of Commerce.

### Project Manager

Our team will be led by our Project Manager, Scott Fabel, P.E. In addition to his technical knowledge (roadways, bridges, walls, and utilities), Scott's knows his effectiveness will require him to know City staff and their needs. Scott is very conscious of contract budgets, delivering qualified staff, and striving to keep within budget.

Scott is the first Point of Contact (POC) for the City. Scott is available to the City to discuss project challenges and issues. Scott will facilitate discussions between the City and our staff. His primary responsibility is maintaining an exceptional level of quality assurance for our services.

### Construction Management/ Resident Engineers

Our Resident Engineers are knowledgeable and experienced in administering contracts in accordance with the project plans, specifications and standards, while maintaining compliance with both FHWA and Caltrans requirements. Our project documents are maintained in both digital and paper formats, allowing easy access to the City staff and audits by both oversight agencies. Our Resident Engineers act as the lead worker on each project, are experienced in effective communication and supervision techniques, and oversee assistant resident engineer's work to help ensure inspection techniques meet the requirements of the work.

## Construction Inspectors

The construction inspector helps to ensure that the performance of construction work complies with the requirements of the plans, special provisions, and Standard Specifications. The duties of the position include: verifying the contractor complies with all contract requirements, performing all required inspections and tests to help ensure quality of work, maintaining complete, accurate, and concise records of the work and quantities, and keeping the resident engineer informed on the progress of work and any problems that arise. The inspector is able to respond to any contractor questions about the plans and specification, but does not direct the contractor's work. The inspector must immediately notify the contractor when the work is not in compliance.

### Project Scheduler

- Support and assist in preparing, analyzing, and implementing project design and construction schedules to ensure conformance with authorized scope, cost, and schedule requirements
- Support and assist in identifying schedule related problems which arise during project execution and recommends corrective actions and creative solutions
- Support and assist in evaluating contract change orders and modifications for impact on budget and schedule
- Support and assist in preparing accuracy and consistency of quality of project cost/ schedule baseline plan and periodic updates to current cost/schedule status reports

### Project Administration/Office Engineers

Office Engineers shall assist the Construction Manager/Resident Engineer in all aspects of required office construction engineering work including setting up and maintaining project files, writing contract change orders, processing required documents and progress payments, as necessary.



*Project Admin/Office Engineer (Continued)*

- Establish filing system
- Review, negotiate and make recommendation for change orders
- Review, respond, and facilitate response to Request For Information (RFI)
- Provide and maintain logs for RFIs, change orders, submittals, Request For Quotations, Correction Notices, Stop Work Notices, and related construction documents.
- Review certified payroll from contractor
- Inform contractor of prevailing wage requirements, reporting, and applicable wage determinations at preconstruction meeting
- Respond to DIR inquiries/requests
- Coordinate with California DIR in resolving non-compliance issues
- Prepare weekly reports
- Prepare all documentation for project close-out

**Sample List of Deliverables**

- Monthly cash flow projections for all aspects of the construction operations.
- Pre-construction meeting agenda, list of attendees; and meeting minutes.
- Records of quality assurance test results.
- Non-conformance reports with recommended actions.
- Certificates of compliance.
- Tracking logs of deficiencies, omissions, non-conformances and corrective status.
- Tracking log of discussions and activities coordinated with City and Stakeholders.
- RFI log tracking date of receipt, transmittal to Design Consultant, responses and response date.
- Requests for Quotes from the contractor for design changes based on RFI clarification or interpretation.

- Submittal log identifying the specified submittals and reflects the submittal and approval dates.
- Records of schedule review, impact analyses, deviations from baseline/updated schedule and work around scheme and activities.
- Records of payment requests and associated quantity calculations, measurements and extra work bills.
- Change Order for Project Manager's signature including calculations, sketches, cost estimates/analyses and back up documents as needed.
- Original executed change orders for project file.
- Change Order Log tracking all change order types and costs including underrun and overrun contract quantities and costs.
- Records of potential claims, their descriptions, initial response, impact analyses, associated information/documentation and related dates.
- Claims analyses and supporting documentation and records including chronology of events leading to claims.
- Monthly Progress Report and associated Cash Flow projections.
- Photo and video records.
- Electronic and hard copies of daily inspection reports and associated photos and documentation.
- Documentation of unsafe conditions and correction thereto.
- Records of non-compliance and corrective actions.
- Field records of construction staking notes, cut sheets and deviation from original design.
- Punch lists and records of corrections.
- Complete set of contract files including all logs and inspection reports in electronic format.
- Final as-built drawings.

## Exhibit B

**EXHIBIT B COST PROPOSAL 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 Ghirardelli Associates Inc. Contract No. \_\_\_\_\_ Date \_\_\_\_\_

Fringe Benefit 49.42% + Overhead 63.99% + General Administration % = 113.41% Combined Indirect Cost Rate (ICR)  
 (= 0% if Included in OH) (= 0% if Included in OH)

FEE= 10%

## 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)	DT(2x)	From	To			
Scott Fabel, PE, QSD Project Manager, Resident Engineer, Scheduling Support	\$201.89	\$201.89	\$201.89	1/1/2018	12/31/2018	\$86.00		Not Applicable
	\$209.96	\$209.96	\$209.96	1/1/2019	12/31/2019	\$89.44	4.00%	
	\$218.36	\$218.36	\$218.36	1/1/2020	12/31/2020	\$93.02	4.00%	
	\$227.09	\$227.09	\$227.09	1/1/2021	12/31/2021	\$96.74	4.00%	
Tim Flint, PE, QSD Resident Engineer, Scheduling Support	\$171.37	\$171.37	\$171.37	1/1/2018	12/31/2018	\$73.00		Not Applicable
	\$178.22	\$178.22	\$178.22	1/1/2019	12/31/2019	\$75.92	4.00%	
	\$185.35	\$185.35	\$185.35	1/1/2020	12/31/2020	\$78.96	4.00%	
	\$192.77	\$192.77	\$192.77	1/1/2021	12/31/2021	\$82.12	4.00%	
Mary Erchul, PE Resident Engineer	\$207.75	\$207.75	\$207.75	1/1/2018	12/31/2018	\$88.50		Not Applicable
	\$216.06	\$216.06	\$216.06	1/1/2019	12/31/2019	\$92.04	4.00%	
	\$224.71	\$224.71	\$224.71	1/1/2020	12/31/2020	\$95.72	4.00%	
	\$233.70	\$233.70	\$233.70	1/1/2021	12/31/2021	\$99.55	4.00%	
Jay Ryan, CWI, QSP Construction Inspection	\$154.54	\$231.80	\$309.07	1/1/2018	12/31/2018	\$65.83		Not Applicable
	\$160.72	\$241.08	\$321.44	1/1/2019	12/31/2019	\$68.46	4.00%	
	\$167.15	\$250.72	\$334.29	1/1/2020	12/31/2020	\$71.20	4.00%	
	\$173.83	\$260.75	\$347.67	1/1/2021	12/31/2021	\$74.05	4.00%	
Carmela (Lita) Davis, CCM, QSP Construction Inspection, Construction Office Engineer	\$149.51	\$224.27	\$299.03	1/1/2018	12/31/2018	\$63.69		Not Applicable
	\$155.49	\$233.24	\$310.99	1/1/2019	12/31/2019	\$66.24	4.00%	
	\$161.71	\$242.57	\$323.43	1/1/2020	12/31/2020	\$68.89	4.00%	
	\$168.18	\$252.27	\$336.36	1/1/2021	12/31/2021	\$71.64	4.00%	
Quang Dinh Construction Inspection	\$154.65	\$231.98	\$309.31	1/1/2018	12/31/2018	\$65.88		Not Applicable
	\$160.84	\$241.26	\$321.68	1/1/2019	12/31/2019	\$68.52	4.00%	
	\$167.27	\$250.91	\$334.55	1/1/2020	12/31/2020	\$71.26	4.00%	
	\$173.96	\$260.95	\$347.93	1/1/2021	12/31/2021	\$74.11	4.00%	
BaoLong (Long) Nguyen Construction Inspection, Construction Office Engineer	\$146.18	\$219.27	\$292.36	1/1/2018	12/31/2018	\$62.27		Not Applicable
	\$152.03	\$228.04	\$304.05	1/1/2019	12/31/2019	\$64.76	4.00%	
	\$158.11	\$237.16	\$316.22	1/1/2020	12/31/2020	\$67.35	4.00%	
	\$164.43	\$246.65	\$328.86	1/1/2021	12/31/2021	\$70.05	4.00%	
Anthony Nixon Construction Inspection	\$147.56	\$221.35	\$295.13	1/1/2018	12/31/2018	\$62.86		Not Applicable
	\$153.47	\$230.20	\$306.93	1/1/2019	12/31/2019	\$65.37	4.00%	
	\$159.61	\$239.41	\$319.21	1/1/2020	12/31/2020	\$67.99	4.00%	
	\$165.99	\$248.98	\$331.98	1/1/2021	12/31/2021	\$70.71	4.00%	
Gilbert Valdez Construction Inspection	\$154.11	\$231.17	\$308.23	1/1/2018	12/31/2018	\$65.65		Not Applicable
	\$160.28	\$240.42	\$320.56	1/1/2019	12/31/2019	\$68.28	4.00%	
	\$166.69	\$250.03	\$333.38	1/1/2020	12/31/2020	\$71.01	4.00%	
	\$173.36	\$260.04	\$346.71	1/1/2021	12/31/2021	\$73.85	4.00%	
David Eldridge Scheduling Support	\$225.20	\$337.79	\$450.39	1/1/2018	12/31/2018	\$95.93		Not Applicable
	\$234.20	\$351.31	\$468.41	1/1/2019	12/31/2019	\$99.77	4.00%	
	\$243.57	\$365.36	\$487.15	1/1/2020	12/31/2020	\$103.76	4.00%	
	\$253.32	\$379.97	\$506.63	1/1/2021	12/31/2021	\$107.91	4.00%	

- 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

Initial   
 Client GAI




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
A. Printing & Reproduction	Each	Actual <sup>1</sup>		Special Tooling				Special Tooling			
B.Cell Phone		N/A		A.				A.			
Computer				B.				B.			
				C.				C.			
A. Laptop		N/A		Travel				Travel			
Vehicles				A.				A.			
A. Vehicle		N/A		B.				B.			
Delivery Services				C.				C.			
A. FEDEX/UPS/ IS Postal		Actual <sup>1</sup>									
Miscellaneous											
A. Public Awareness Expenses		N/A									
B. Travel Expenses	Each	Actual <sup>1</sup>									
PRIME TOTAL ODCs =			\$0	SUBCONSULTANT #1 ODCs =			\$0	SUBCONSULTANT #2 ODCs =			\$0

IMPORTANT NOTES:

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 purpose. that could be used for the same purpose.

Initial   
Client GAI



**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 Ghirardelli Associates, 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 Ghirardelli Associates, 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 26<sup>th</sup> day of MARCH 2018 at SAN JOSE 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]

### **Criminal Convictions Information**

None

### **Civil Litigation History Information**

1. Name and Court Case ID number
  - a. Name: Bruce Penhall, et al v. Flatiron Construction Corp., et al Defendants
  - b. Court Case ID: BC511006
2. Jurisdiction
  - a. Superior Court of the State of California-Los Angeles-Pomona Courthouse South
3. Outcome
  - a. Settlement reached

### **False Claims Act Information**

None

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 D  
(Signature of Notary)

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

END OF DOCUMENT

## 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 }

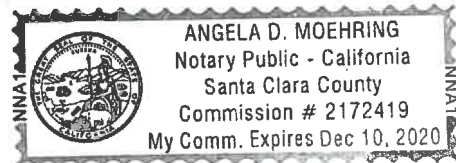
COUNTY OF Santa Clara }

Subscribed and sworn to (or affirmed) before me on this 26<sup>th</sup> day of March, 2016  
by Randall Bruner  
Date Month Year

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

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

Signature of Notary Public



### 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: on-call Professional services

Document Date: 3-26-18

Number of Pages: 5

Signer(s) Other Than Named Above: N/A

**JM Diaz, Inc.**

**PROFESSIONAL SERVICES AGREEMENT**  
**ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and **JM Diaz, 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 **Juan M. Diaz.**
- 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:
- Juan M. Diaz**  
**President/CEO**  
**JM Diaz, Inc.**  
**188645 East Gale Ave., Ste. 201**  
**City of Industry, CA 91748-1363**
- 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

  
\_\_\_\_\_  
Juan M. Diaz, President

Attest:

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

Approved as to Form:

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/3/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER** Edgewood Partners Insurance Center (EPIC)  
19000 MacArthur Blvd. PH Floor  
Irvine, CA 92612

**CONTACT NAME:**  
**PHONE (A/C, No, Ext):** (949) 263-0606 **FAX (A/C, No):** (949) 263-0906  
**E-MAIL ADDRESS:**

www.edgewoodins.com

**INSURED**  
JM Diaz, Inc.  
DBA: JMD  
18645 E. Gale Ave., Ste #212  
City of Industry CA 91748

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Travelers Property Casualty Company of America	25674
INSURER B: Travelers Casualty and Surety Co America	31194
INSURER C: Travelers Indemnity Company of CT	25682
INSURER D:	
INSURER E:	
INSURER F:	

## COVERAGES

**CERTIFICATE NUMBER:** 38698658**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			680-2J330994	6/27/2017	6/27/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Deductible \$None
C	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA-4J373941	6/27/2017	6/27/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$0			CUP-7E606764	6/27/2017	6/27/2018	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 Prod/Co-Ops \$2,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB-4288T923	6/27/2017	6/27/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	<b>Professional Liability</b> Claims Made Form Knowledge Date: 4/8/2005			105263164	6/27/2017	6/27/2018	\$2,000,000 per Claim \$2,000,000 Aggregate \$10,000 Per Claim Deductible

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: On-Call for Construction Management and Inspection

Certificate holder(s) are named as Additional Insureds as respects General Liability per endorsement CG D3 81 09/15 and as respects Hired and Non-Owned Automobile Liability per endorsement CA T4 37 02/16, but only where required by written contract with the Named Insured prior to an occurrence and subject to all policy terms, conditions and exclusions.

GL Primary/Non-contributory & Waiver per CG D3 81 09/15, Auto Waiver per CA T3 40 02/15; Work Comp Waiver per WC 99 03 76(A)

## CERTIFICATE HOLDER

City of Commerce  
Director of Public Works and Development Services  
2535 Commerce Way  
Commerce CA 90040

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Todd Holliday

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AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_

**ADDITIONAL REMARKS SCHEDULE**

Page \_\_\_\_ of \_\_\_\_

<b>AGENCY</b> Edgewood Partners Insurance Center (EPIC)		<b>NAMED INSURED</b> JM Diaz, Inc. DBA: JMD 18645 E. Gale Ave., Ste #212 City of Industry CA 91748
<b>POLICY NUMBER</b> 680-2J330994		
<b>CARRIER</b> Travelers Property Casualty Company of America	<b>NAIC CODE</b> 25674	<b>EFFECTIVE DATE:</b> 6/27/2017

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25      **FORM TITLE:** Certificate of Liability (03/16)**HOLDER:** City of Commerce Director of Public Works and Development Services**ADDRESS:** 2535 Commerce Way Commerce CA 90040

City and its officers,  
employees, agents, and authorized volunteers shall be covered as additional insureds

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)**

This endorsement modifies insurance provided under the following:  
**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**1. The following is added to SECTION II – WHO IS AN INSURED:**

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

**2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

COMMERCIAL AUTO

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**BLANKET ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM**

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE** in the **BUSINESS AUTO COVERAGE FORM** and Paragraph e. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE** in the **MOTOR CARRIER COVERAGE FORM**, whichever Coverage Form is part of your policy:

This includes any person or organization who you are required under a written contract or agreement

between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET WAIVER OF SUBROGATION**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

The following replaces Paragraph **A.5., Transfer of Rights Of Recovery Against Others To Us**, of the **CONDITIONS** Section:

**5. Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent

required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.



ENDORSEMENT WC 99 03 76 ( A) - 001

POLICY NUMBER: UB-4288T923

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS  
ENDORSEMENT - CALIFORNIA  
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

The additional premium for this endorsement shall be % of the California workers' compensation premium.

**Schedule**

**Person or Organization**

**Job Description**

ANY PERSON OR ORGANIZATION FOR  
WHICH THE INSURED HAS AGREED  
BY WRITTEN CONTRACT EXECUTED  
PRIOR TO LOSS TO FURNISH THIS  
WAIVER

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 6/27/2017

Policy No. UB-4288T923

Endorsement No.  
Premium

Insured JM Diaz, Inc.

DBA: JMD  
Insurance Company

Countersigned by \_\_\_\_\_

DATE OF ISSUE: 11/3/2017

ST ASSIGN:

Page 1 of 1

## H. ADDITIONAL INFORMATION

30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

## Introduction



JMDiaz, Inc. (JMD), a California corporation, offers a full range of transportation planning and civil engineering covering highways, land development, traffic and rail projects for local agencies, schools, railroads and private entities in California.

Originally founded by Juan M. Diaz in 2001, JMD is serving clients from its office in City of Industry, California. Currently, JMD has a staff of 22 professionals and administrative staff.

Through the proven experience of its professionals and technical staff, JMD has earned a reputation of quality, commitment and responsiveness by providing innovative and timely design solutions on projects sponsored by private developers and public agencies. JMD's reputation is complemented by its values and commitment to improve quality of life as expressed in its mission statement:

*"To provide responsive, innovative and effective solutions that improve quality of life."*

In addition to its comprehensive qualifications, JMD is also certified with local agencies as a:

1. Disadvantaged Business Enterprise (DBE)
2. Minority Business Enterprise (MBE)
3. Small/Very Small Business Enterprise (SBE/VSBE)

## Services

JMD offers a wide range of services covering planning, engineering and management for public and private sector clients. These services cover all phases of project development from conceptual design through construction. Such depth of services is one of JMD's unique and distinguishing characteristics that have contributed to its success.

## Planning

JMD develops planning studies for a host of transportation and land development projects. Planning studies for transportation projects include the development of project study reports and project reports related to highway projects involving State agencies such as Caltrans. JMD professionals are very familiar with Caltrans project development procedures, standards and requirements for State highways.

In addition, JMD prepares feasibility studies for a variety of projects including roadway and rail corridor projects as well as rail/highway grade separations, grade crossing safety and quiet zone projects requiring careful coordination with multiple stakeholders and sensitive agencies, railroads and communities.

JMD staff is experienced in the development of traffic studies for site development and transportation projects. JMD staff have prepared traffic impact studies for land development projects including commercial, residential, school and large resort projects. These studies include traffic impact, access, circulation and parking studies.

## Engineering

JMD offers expertise in several areas of civil engineering including highway, land, rail and traffic engineering. JMD experience includes the development of plans, specifications and estimates for a variety of facilities including freeways, roadways, streetscapes, traffic signals, lighting systems, light rail corridors, railroads, grade crossings and development sites. These projects have required JMD's expertise in roadway, grading, drainage, utility, signing & striping, traffic signals, lighting, traffic control, grade crossing, and track alignment design.

JMD has thorough knowledge of Federal, State, local agency and private entity project requirements as they relate to transportation and development projects. JMD staff are often coordinating project approvals with public agencies at all levels as well as developing sensitive projects requiring close coordination with political officials, railroads and local communities.

## Management

JMD provides two types of management services, namely, project related management services and private business management consulting/advisory services. First, JMD provides project and program management services to public agencies in the development of transportation projects. These services include assisting local agencies in applying for State and local funding for the development of public works projects including roadway, trackwork and rail/highway grade separation projects. Second, JMD assists private companies by providing expert management consulting services to assist firms in developing strategies (e.g. growth, diversification, etc.) that focus on market penetration, management and project delivery to improve short and long-term performance.

## Standard Agreement Review

JMD agrees to execute the City's standard contract and disclosure form included in Attachment "C" of the subject RFQ without amendment. JMD also certifies that the firm has an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31. JMD is a corporation in good standing to do business in California pursuant to Revenue and Tax Code 23101.

## Subconsultants



GEO-ENVIRONMENTAL, INC.

Role: Geotechnical

GEI provides a broad spectrum of geotechnical, geological, earthquake and environmental engineering, as well as construction observation and soils testing services. GEI's geotechnical engineers, geologists, civil engineers, and scientists are skilled in construction observation and materials testing, soil and rock mechanics, soil dynamics and soil-structure interaction, soil liquefaction studies, foundation

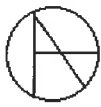
## H. ADDITIONAL INFORMATION

30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

engineering, seismology, seismic risk evaluations, and geophysical surveys.

Our capabilities include exploration of surface and subsurface conditions through a variety of field techniques including geologic mapping, drilling with hollow-stem and bucket-auger rigs, downhole logging, and seismic surveys. The firm's exploration techniques encompass conventional and state-of-the-art sampling methods as well as geophysical and seismological techniques.

GEI has, for the past **20 years**, been providing highly qualified laboratory and field technicians who provide quality services to various governmental entities and private industry throughout Southern California. At GEI, we place public agency-experienced professionals, technicians, and support personnel where they become an integral part of the City's projects and an extension of the City's staff.



**FHA Consulting Engineers**

### Role: Surveying and Right of Way

FHA Consulting Engineers, is a small and well established civil engineering firm offering professional land surveying and mapping services throughout California.

FHA applies state-of-the-art land surveying techniques and instruments to produce high quality products that can be relied on for further use by its public sectors and private clients.

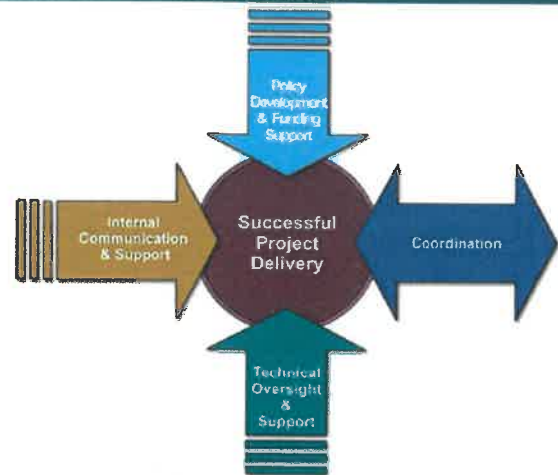
FHA was established in January 2003 in Orange County, California and by having current business License from the City of Irvine to practice engineering services.

FHA has and continues to successfully work on various public work projects for public sectors and private clients throughout California. Land Surveying and Mapping Services that FHA offers are as follows:

4. GPS Control Surveying
5. Architectural Design Surveying
6. Transportation Surveying
7. Topographic Survey
8. Horizontal and Vertical Control
9. Design and Construction Surveying
10. A.U.L.T.A.
11. Boundary Survey

### Approach

JMD's approach is to be **Service-Oriented**, as it has done to date in Commerce, and keep the City informed throughout the project. We will meet with City staff early to verify the City's expectations for the project and our proposed scope, schedule and process.



The basic components of JMD's Scope are project/task definition and implementation.

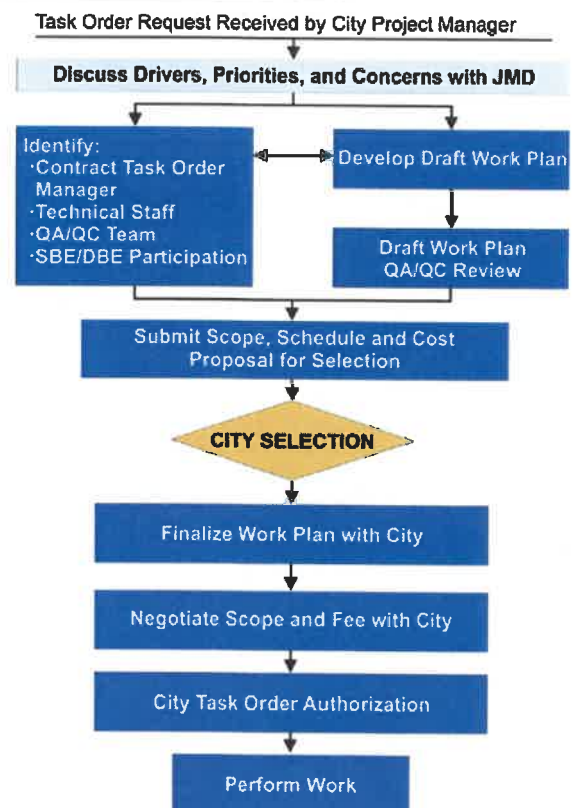
### Project/Task Definition

Successful delivery begins with accurate project/task definition. JMD will meet with City staff early to define and verify the City's expectations for each task or project and our proposed scope, schedule and process.

### Technical

The JMD Team's approach to this project begins with meeting early with the City to begin the contract task order (CTO) definition process (illustrated in **Figure 1** below) in order to finalize scope, schedule and process.

Figure 1 – Contract Task Order Process



## H. ADDITIONAL INFORMATION

### 30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

Once we have prepared the final scoping documents and are issued a Notice to Proceed (NTP), we will begin the conceptual phase of the project.

#### Scope of Work

JMD will adhere to the terms, conditions, and requirements in the scope of services included in the City's RFP for this project.

The following is the anticipated scope of services:

#### Pavement Engineering

1. Perform initial field review
  - Record general pavement conditions
  - Record preliminary estimate of reconstruction repair quantity
  - Record geometric constraints to overlay thickness
  - Record special deterioration problems that may significantly affect the rehabilitation design.
2. Develop overlay strategies, based on optimal costs, and other miscellaneous constraints.
3. Record existing Handicapped Ramps and upgrade to the latest standards as necessary
4. Perform a site review:
  - Mark reconstruction repairs on the pavement and on plan sheets
  - Plot locations of any special treatments on plan sheets
  - Record quantity of crack treatments needed on various areas of project.

#### Preliminary Design

1. Confer with City staff to review, in full detail, the requirements for the project.
2. Perform research at the County of Los Angeles and the City of Hawaiian Gardens for record information.
3. Review compiled data utilizing existing record data
4. Obtain locations of pavement to be reconstructed or repaired.
5. Obtain locations of pavement to be reconstructed or repaired.
6. Obtain locations of existing Handicapped Ramps.
7. Obtain locations of traffic striping
8. Develop base drawing:
  - Plot existing survey data.
  - Identify and plot substructures.
  - Conduct field verification of survey data.
9. Determine drainage correction requirements, if necessary, in conjunction with pavement overlay.
10. Develop preliminary improvement plans for pavement overlay.
11. Define limits of pavement removal and replacement.
12. Develop preliminary striping and loop replacement plans, if applicable.
13. Develop preliminary opinion of probable construction cost for pavement overlay and striping.
14. Submit preliminary design plans to all affected agencies and utility companies for review.

The PS&E will be prepared in accordance with the Engineering Division requirements of the Community Development requirements.

#### Final Design

1. Based on the City's and Utility companies' comments and requirements, revise plans.
2. Prepare detailed plans and attend coordination meetings, as necessary, with City personnel at various times during the design phase to obtain additional inputs and review work.
3. Prepare specifications and contract documents to conform to applicable requirements of the City of Hawaiian Gardens and Measure R Funds.
4. Prepare the final opinion of probable construction cost.
5. Provide 25 sets of plans and specifications for bidding after approval of plans.

#### Utility Coordination

1. Submit copies of plans to all affected utilities and agencies.
2. Coordinate with affected utility companies to provide for any proposed utility improvements prior to pavement construction.
3. Send notification of preconstruction conference to affected utility companies.
4. Attend the preconstruction conference.
5. Review project scope of work with each utility company at the preconstruction conference. Identify possible conflicts and work with each utility to assure that its facilities will be protected if properly identified.
6. Coordinate with City construction observer during construction to expedite the identification of any unknown utilities found during excavation.

#### Monument Restoration (if necessary)

1. Replace centerline ties disturbed by construction.
2. Replace centerline monuments and file a second set of corner record documents.
3. Provide City of Hawaiian Gardens with updated set of centerline tie notes.

#### Contract Administration

1. Prepare the Notice of Exemption to obtain environmental clearance (Categorical Exemption) for CEQA compliance.
2. Prepare staff report to authorize bidding of project. The City will provide a sample.
3. Assist the City in securing bids and preparing bid analysis and staff report to award project.
4. Prepare preconstruction meeting notice, attend preconstruction conference and prepare minutes.
5. Provide contract administration for proper enforcement of the plans and specifications.
6. Provide engineering support, as needed, to make as-built revisions to the original plans.
7. Provide the necessary consulting services required to coordinate the efforts between the City and contractor.
8. Review and approve the progress payment requests.
9. Answer inquiries and complaints for the City relating to the project.



## H. ADDITIONAL INFORMATION

30 PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED

10. Prepare Notice of Completion and staff report to accept the project.

### Construction Observation

1. Mark locations of repairs of pavement.
2. Provide daily full-time construction observation during the construction period.
3. Provide the necessary weekly, monthly, and final reports, as needed.
4. Provide copies of daily construction observation reports on a weekly basis, if requested.
5. Provide necessary coordination with other agencies to provide final inspection of the project.
6. Provide record drawings and project completion.
7. Provide report to City following final inspection stating that the project has been completed, and provide necessary data for City acceptance of the project.
8. Provide asphalt batch plant inspection.

### Material Inspection and Testing

1. Procure, coordinate, and approve the required asphalt-concrete (AC) mix design, asphalt rubber material submittals, if required, and specified contractor raw material test data.
2. On the first day of paving at the AC plant, check gradations of aggregate, monitor oil content, and procure a sample for extraction.

3. Check asphalt-rubber binder to ensure proper constituents and reaction time per specifications.
4. Provide a laboratory extraction test to verify binder content.

### Labor Compliance

1. Procure Labor compliance components of project specifications in accordance with current labor regulations and requirements.
2. If applicable, attend pre-bid conference to present general requirements of bid preparation for the project.
3. Verify applicable wage determination ten (10) days prior to bid opening; document verification as required; if wage determination has changed from what appears in project specifications, provide addendum and proof of receipt by bidders.
4. Verify eligibility of selected contractor and its subcontractors to receive contract awards by confirming current, active license status with Contractors State License Board and non appearance on Federal List of Parties Excluded (debarment list).
5. Attend preconstruction conference to present Labor Compliance requirements to contractor and sub contractors; prepare minutes and attendance record thereof.
6. Verify and document job-site posting of wage rate information and labor compliance posters.

### I. AUTHORIZED REPRESENTATIVE

The foregoing is a statement of facts

31. SIGNATURE



32. DATE

September 4, 2015

33. NAME AND TITLE

Juan M. Diaz, P.E., President/CEO

**EXHIBIT B - FEE SCHEDULE 10-H** 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

Contractor: JMDiaz, Inc. Contract No. \_\_\_\_\_ Date: 11/06/17

Fringe Benefit 0.00% + Overhead 176.50% + General Administration 0.00% = 176.50% Combined Indirect Cost Rate (ICR)  
(=0% if Included in OH) (=0% if Included in OH)

FEE= 10.00%

## 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			
Juan M. Diaz, PE, MBA/ Principal/Project Manager Principal	\$ 96.07 \$ 98.95 \$ 101.92	\$ 144.11 \$ 148.43 \$ 152.88	\$ 192.14 \$ 197.90 \$ 203.84	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 292.20 \$ 300.96 \$ 309.99	3.00% 3.00% 3.00%	\$ 96.07 \$ 98.95 \$ 101.92
Steve Itagaki, PE, TE, PTOE/ Alt. Project Manager/ Project Manager	\$ 61.20 \$ 63.04 \$ 64.93	\$ 91.80 \$ 94.55 \$ 97.39	\$ 122.40 \$ 126.07 \$ 129.85	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 186.14 \$ 191.72 \$ 197.48	3.00% 3.00% 3.00%	\$ 53.56 - \$ 61.20 \$ 55.17 - \$ 63.04 \$ 56.82 - \$ 64.93
Ivan Salvatierra, PE, TE/ Traffic Engineer/ Project Manager	\$ 56.00 \$ 57.68 \$ 59.41	\$ 84.00 \$ 86.52 \$ 89.12	\$ 112.00 \$ 115.36 \$ 118.82	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 170.32 \$ 175.43 \$ 180.70	3.00% 3.00% 3.00%	\$ 53.56 - \$ 61.20 \$ 55.17 - \$ 63.04 \$ 56.82 - \$ 64.93
Vicki Huang, PE/ Project Engineer/ Project Manager	\$ 53.56 \$ 55.17 \$ 56.82	\$ 80.34 \$ 82.75 \$ 85.23	\$ 107.12 \$ 110.33 \$ 113.64	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 162.90 \$ 167.79 \$ 172.82	3.00% 3.00% 3.00%	\$ 53.56 - \$ 61.20 \$ 55.17 - \$ 63.04 \$ 56.82 - \$ 64.93
Arjan Idnani/ Construction Manager- Inspector/Inspector	\$ 60.00 \$ 61.80 \$ 63.65	\$ 90.00 \$ 92.70 \$ 95.48	\$ 120.00 \$ 123.60 \$ 127.31	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 182.49 \$ 187.96 \$ 193.60	3.00% 3.00% 3.00%	\$ 60.00 \$ 61.80 \$ 63.65
Kourosh Farrahi/ Inspector/ Inspector	\$ 46.00 \$ 47.38 \$ 48.80	\$ 69.00 \$ 71.07 \$ 73.20	\$ 92.00 \$ 94.76 \$ 97.60	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 139.91 \$ 144.11 \$ 148.43	3.00% 3.00% 3.00%	\$ 46.00 \$ 47.38 \$ 48.80
Pierre Handl, PE/ Sr. Cost Estimator/ Sr. Cost Estimator	\$ 63.65 \$ 65.56 \$ 67.53	\$ 95.48 \$ 98.34 \$ 101.29	\$ 127.30 \$ 131.12 \$ 135.05	1/1/2017 1/1/2018 1/1/2019	12/31/2017 12/31/2018 12/31/2019	\$ 193.59 \$ 199.40 \$ 205.38	3.00% 3.00% 3.00%	\$ 63.65 \$ 65.56 \$ 67.53

- 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" listings, see page 2 of this Exhibit

**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 JMDIA2, 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 JMDIAZ, 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 20<sup>TH</sup> day of March 2018 at INDUSTRIAL, CA  
(month and year) (city and state)

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

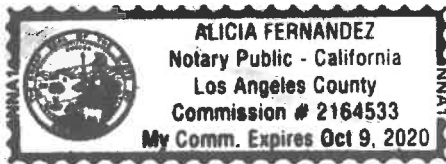
[NOTARY ACKNOWLEDGEMENT TO FOLLOW]


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

Subscribed and sworn to (or affirmed) before me this 20<sup>th</sup> day of March, 20 18.

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)

Alicia Fernandez  
(Typed Name of Notary)

END OF DOCUMENT

# KOA Corporation

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and KOA Corporation ("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 Joel Falter.
- 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:
- Joel Falter  
Principal In Charge/Chief Operating Officer  
KOA Corporation  
1100 Corporate Center Dr., Ste. 201  
Monterey Park, CA 91754
- 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

  
\_\_\_\_\_  
Joel Falter, Principal IN Charge / Chief  
Operating Officer

Attest:

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

Approved as to Form:

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

Contract: City of Commerce  
Consultant: KOA Corporation

Date: 11/14/2017

Fringe Benefit %	52.91%	+	Overhead %	34.93%	+	G&A %	50.90%	=	Combined %	138.74%
NORMAL										

(= 0% if Included in OH)  
FEE % =

10%

(= 0% if Included in OH)  
Salary Increase

5.00%

Name / Classification	Hourly Billing Rates			Effective date of hourly rate		Average hourly rate	% Increase	Hourly range for class
	Straight	OT (1.5)	OT (2.0)	From	To			
Principal In-Charge	\$210.09	\$250.09	\$290.09	1/1/2017	12/31/2017	\$80.00	5.00%	\$XX-\$XX
	\$220.60	\$262.60	\$304.60	1/1/2018	12/31/2018	\$84.00	5.00%	\$XX-\$XX
	\$231.63	\$275.73	\$319.83	1/1/2019	12/31/2019	\$88.20	5.00%	\$XX-\$XX
Senior Construction Manager	\$189.40	\$225.46	\$261.52	1/1/2017	12/31/2017	\$72.12	5.00%	\$XX-\$XX
	\$198.87	\$236.73	\$274.59	1/1/2018	12/31/2018	\$75.73	5.00%	\$XX-\$XX
	\$208.81	\$248.57	\$288.32	1/1/2019	12/31/2019	\$79.51	5.00%	\$XX-\$XX
Construction Manager	\$160.19	\$190.69	\$221.19	1/1/2017	12/31/2017	\$61.00	5.00%	\$XX-\$XX
	\$168.20	\$200.23	\$232.25	1/1/2018	12/31/2018	\$64.05	5.00%	\$XX-\$XX
	\$176.61	\$210.24	\$243.87	1/1/2019	12/31/2019	\$67.25	5.00%	\$XX-\$XX
Project Manager	\$158.22	\$188.35	\$218.47	1/1/2017	12/31/2017	\$60.25	5.00%	\$XX-\$XX
	\$166.14	\$197.77	\$229.40	1/1/2018	12/31/2018	\$63.26	5.00%	\$XX-\$XX
	\$174.44	\$207.66	\$240.87	1/1/2019	12/31/2019	\$66.43	5.00%	\$XX-\$XX
Senior Construction Observer	\$164.74	\$196.10	\$227.47	1/1/2017	12/31/2017	\$62.73	5.00%	\$XX-\$XX
	\$172.97	\$205.91	\$238.84	1/1/2018	12/31/2018	\$65.87	5.00%	\$XX-\$XX
	\$181.62	\$216.20	\$250.78	1/1/2019	12/31/2019	\$69.16	5.00%	\$XX-\$XX
Construction Observer	\$142.73	\$169.91	\$197.08	1/1/2017	12/31/2017	\$54.35	5.00%	\$XX-\$XX
	\$149.87	\$178.40	\$206.93	1/1/2018	12/31/2018	\$57.07	5.00%	\$XX-\$XX
	\$157.36	\$187.32	\$217.28	1/1/2019	12/31/2019	\$59.92	5.00%	\$XX-\$XX
Office Administrator	\$112.92	\$134.42	\$155.92	1/1/2017	12/31/2017	\$43.00	5.00%	\$XX-\$XX
	\$118.57	\$141.15	\$163.72	1/1/2018	12/31/2018	\$45.15	5.00%	\$XX-\$XX
	\$124.50	\$148.20	\$171.91	1/1/2019	12/31/2019	\$47.41	5.00%	\$XX-\$XX
CM Coordinator	\$68.28	\$81.28	\$94.28	1/1/2017	12/31/2017	\$26.00	5.00%	\$XX-\$XX
	\$71.69	\$85.34	\$98.99	1/1/2018	12/31/2018	\$27.30	5.00%	\$XX-\$XX
	\$75.28	\$89.61	\$103.94	1/1/2019	12/31/2019	\$28.67	5.00%	\$XX-\$XX

## KOA CORPORATION

Founded in 1987, KOA Corporation (KOA) is one of the leading traffic engineering and transportation planning and design firms in California, providing consulting services to both the public and private sectors. We are a local firm with six offices that all serve our Southern California clients. With more than 90 employees, our staff includes transportation planners and California-registered civil and traffic engineers. KOA has provided engineering services for many of the largest public works and transportation planning projects in California. KOA is a California Corporation based in and working primarily in California. KOA's professional planning and engineering staff members are available to provide the following services:

### Types of Services

Our statement of qualifications submittal is for the construction management discipline. KOA's construction management division primarily focuses on providing construction management services for building, street improvement, storm drainage, sewer and water pipeline and parks projects for public agencies. We have briefly described some of the more essential services in the following:

#### Construction Management

KOA has a construction management and inspection division that works almost exclusively for Public Works departments for various agencies in southern California, including Riverside County, San Bernardino County, San Diego County, Orange County, and Los Angeles County. In addition to our team of experienced professionals, we also have a good understanding of specific public agency requirements.

Our construction manager specialists manage projects in various sizes, from a few hundred thousand dollars to multi-million dollars. Our own construction management systems are tailored for each individual project and client. Typical tasks that are addressed include:

- Conducting pre-construction conferences with contractor, designers, utilities and stakeholders
- Processing and tracking of submittals as efficiently as possible
- Ensure that the contractor implements Traffic Control Plans wherever applicable
- Respond to RFI's quickly and efficiently and track them through to their conclusion
- Implementation and dealing with cost implications where appropriate
- Prepare weekly statement of working days documenting the construction progress, time of completion, delays and time extensions, and submit to contractor and the City on weekly basis
- Address problems and produce solutions quickly and economically
- Maintain complete and current project files for all contracts, correspondence relating to or modifying the contract, proposal requests, clarifications, permits, logs, reports, RFI's, field orders, change

### CORPORATE OFFICE

1100 Corporate Center Drive  
Suite 201 Monterey Park, CA  
91754

Tel: 323.260.4703

Fax: 323.260.4750

### 30 YEARS IN BUSINESS

### FOUR OFFICES IN SOUTHERN CALIFORNIA

Monterey Park

Ontario

Orange

San Diego

### CURRENT NUMBER OF PROFESSIONAL PERSONNEL

Over 100

### MAIN CONTACT

Chuck Stephan

cstephan@koacorp.com

310.525.0678



orders, claims inspection reports, test reports, etc.

- Review and approve the schedule, monitor and track progress against the schedule
- Create a photographic record of pre-construction conditions and progress photographs throughout the project
- Oversee the work being performed and ensure compliance with the contract, plans, specifications and intent
- Undertake all coordination with the Agency and other bodies including utilities, permitting agencies, etc.
- Monitoring of project work and adjacent areas for unsafe conditions, promptly require corrective measures from the contractor
- Monitor for labor compliance, review certified payrolls and conduct interviews and audits whenever required
- Enforcing all provisions of the Storm Water Pollution Prevention Plan
- Recommend approval of materials and workmanship that meet the contract requirements, in coordination with the authorities having jurisdiction
- Coordinate any assistance required from the design team or other stakeholders to interpret documentation, details or to provide technical assistance
- Compile daily observation reports documenting construction activities, the contractor's workforce, material and equipment used and field problems
- Produce periodic progress reports if required
- Coordinate laboratory, jobsite, offsite testing of construction materials and required observations per construction documents, construction codes, and Jurisdictional Agencies
- Manage changes/claims and negotiate credits and extras with the contractor and present recommendations to the Agency and manage the overall project budget
- Daily Extra Work Reports: KOA will verify contractor's daily extra work reports documenting force account (time and materials) work
- Progress Payment Processing: KOA will measure work completed, review the payment applications, make adjustments and recommend payment
- Conduct construction meetings and field meetings, write and distribute minutes
- KOA will issue written instructions to contractor regarding routine matters and/or follow-up of verbal instructions as necessary to properly document project issues
- Ensure that the contractor maintains accurate as-built plans
- Perform the final job walk and prepare the punch-list and ensure that the items are adequately addressed
- Perform closeout duties including final organization of project files and submit to the Agency for final approval, and assist with the filing of the notice of completion and release of retention
- Deliver as-builts and closeout documents including operations and maintenance manuals, hand-over equipment

### Cost Estimating Services

KOA has an extensive database to evaluate costs, change order requests, and contractor claims against other recent KOA-managed projects and to establish a basis for evaluating costs. Another pro-active method that KOA uses is to keep a spreadsheet of all potential change-costs by conducting an independent estimate of cost changes, whether the contractor has raised an issue or not. By doing so, KOA is able to constantly keep the Agency abreast of the potential final project cost, which enables management decisions to be made while there is still time remaining in the project.

### Constructability Reviews

The KOA Team regularly conducts constructability reviews of projects (ours and other consultants) and is particularly adept at finding better solutions to problems by looking first at the big picture and then at the details. For the big-picture, we model the project from which a schedule is developed. We use that schedule to find ways to reduce the construction time as far as possible and analyze the sacrifices that need to be made to achieve the quickest time, which generally reduces cost as well. We study the details from a functional point of view and look for ways to simplify the

design without reducing the target quality. This is an important component of our function as it can lead to time and cost savings, and in some cases allows operations to be constructed concurrently as opposed to sequentially. Generally constructability reviews can be conducted at the 30% and 90% design phases for projects to maximize cost effectiveness.

### Project Scheduling

KOA regards schedules as one of the most powerful key tools that can be used to control a project, and we have an in-depth knowledge of how schedules work. The KOA team generally creates an independent schedule to best plan a project, and we are thus in a very good position to evaluate a contractor's schedule and make constructive suggestions. We use all of the major scheduling systems and can develop accurate and realistic schedules for every operation, whether for planning, project management, construction management or looking at a single component of a project. KOA also has the ability to manage float.

There is always an emphasis on the sequence of work, phasing logic and firm milestones and flag-dates when developing schedules. KOA has the capability to produce accurate as-built schedules during projects to record actual progress against the baseline schedule. Project Milestones will be developed and will be regarded as key dates in all schedule assessments. Resource-loading is another tool that KOA uses when necessary.

Listed below are some of our recent **CONSTRUCTION MANAGEMENT** projects and public agency clients

County of Riverside	2016	Sunset Grade Separation	Sub to Harris & Associates
Redondo Beach	2017	Street Rehabilitation	Street and Sidewalk Repair and Rehabilitation
Arcadia	2017	Huntington Drive Sewer	Sewer Transmission Main Replacement
Anaheim	2017	Brookhurst Avenue Impr.	Arterial Highway Widening and Intersection Imp.
Monterey Park	2017	Residential Water Main Repl.	Replacement of Residential Water Pipe System
Chino	2015-2018	On-Call Contracts	Street Rehabilitation, Storm Drain, Permit Inspection
WMWD	Ongoing		Pipeline and Sterling Pump Station
Brea	May 2014		Provided Construction Mgmt for Fire Station #4
Yucaipa	2012-2014		Annual Street Rehabilitation
Corona	2015		On-Call: Stagecoach Park Water Line Project

**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 KOA Corporation, 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 KOA Corporation, 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

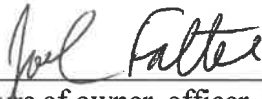
applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following:

- (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.

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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 Monterey Park, 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)



Nikita Choi

(Signature of Notary)

Nikita Choi

(Typed Name of Notary)

END OF DOCUMENT

**MARSS Services, Inc.**

**PROFESSIONAL SERVICES AGREEMENT  
ON-CALL FOR CONSTRUCTION MANAGEMENT AND INSPECTION**

THIS AGREEMENT for Professional Services ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date") by and between the City of Commerce ("City") and MARSS 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 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 Riaz Chaudhary.
- 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:
- Riaz Chaudhary  
Principal  
MARSS Services, Inc.  
205 S. Broadway, Suite 618  
Los Angeles, CA 90012
- 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.

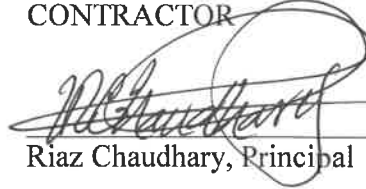
**11.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

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

CITY OF COMMERCE

CONTRACTOR

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

\_\_\_\_\_  
  
Riaz Chaudhary, Principal

Attest:

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

Approved as to Form:

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

**EXHIBIT A**  
**SCOPE OF WORK**

## **Exhibit A- Scope of Services**

### **Pre-Construction Phase**

This phase includes a kick-off meeting with agency staff; constructability reviews to ensure a biddable, constructible set of contract documents is produced so as to minimize the potential for change orders by the contractor; and the pre-construction meeting with the agency Project Manager, stakeholders (including utility owners), the Contractor, and our Resident Engineer, Lead Inspector, and Office Engineer. Pre-Construction Phase Services include, but are not limited to the following:

- Project Implementation Plan
- Management Information Control System
- Design Management
- Design Review
- Agency Approval
- Constructability Review
- Scheduling and Cost Estimate
- Value Engineering
- Bid Documents
- Bid and Award Support
- Pre-Construction Conferences

### **Construction Phase – Construction Management**

This phase consists of oversight, management, and inspection of the work; addressing all job site conditions including safety and labor compliance, Requests for Information (RFI's) issues and resolutions, schedule analysis and management, third party coordination, updating as-built documents, payroll reviews, change orders, contractor compliance and material testing. Construction Management Services include, but are not limited to the following:

- Construction Coordination
- Safety Compliance
- Progress Meetings
- Submittals and RFI's Administration
- Document Control
- Surveying
- Schedule Review
- Progress Payments
- Change Administration
- Estimating
- Claims Support
- Environmental Compliance
- Presentations
- Status Reporting

### **Construction Phase - Field Inspection**

MARRS inspectors perform a readiness review prior to start of various activities to verify that all the permits are in place and all the approvals have been obtained. Our daily inspection logs contain description of work, manpower and equipment at site, weather conditions, work-observed, daily quantities, visitors to the site, and any unusual or pertinent happenings relevant to the construction site. In addition, the daily inspection logs will summarize important conversations relative to project progress, and any verbal instructions. Field Inspection Services include, but are not limited to the following:

- Field Observations and Daily Reports
- Material Testing and Inspection
- Source Inspection
- T&M Records Keeping
- Final Inspection

### **Closeout Phase**

This phase facilitates turnover and delivery of the project to the owner. The MARRS Team ensures that commissioning is properly conducted and documented, Operations and Maintenance (O&M) manuals are obtained, agency staff training is completed, and as-built plans are produced and turned over to the agency. If necessary and requested, MARRS assists with claims and contract dispute assistance and resolution. Closeout Services include, but are not limited to the following:

- Punch List Resolution
- Occupancy Permit
- Commissioning and Startup
- As-Built Records
- O&M Manual
- Final Payment Request
- Contract Closeout

**EXHIBIT B**  
**FEE SCHEDULE**

EXHIBIT 10-H COST PROPOSAL PAGE 1 OF 3

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

MARRS Services, Inc.

Contract No. TBD

Date 11/14/2017

**Home Office** Fringe Benefit 0.00% +  
0%

Overhead 0.00 %  
150%

+ General Administration 0.00% =  
0%

Combined Indirect Cost Rate (ICR)  
150%

FEE % = 10%

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup> - Home Office		Effective date of hourly rate		Actual or Avg. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x)	From	To			
Officer-in-Charge	\$247.50	N/A	11/14/2017	12/31/2018	\$90.00		\$85.00 - \$100.00
Exempt	\$257.40	N/A	01/01/2019	12/31/2019	\$93.60	4.00%	\$88.40 - \$104.00
Project Manager/Construction Manager	\$267.70	N/A	01/01/2020	12/31/2020	\$97.34	4.00%	\$91.94 - \$108.16
Exempt	\$179.75	N/A	11/14/2017	12/31/2018	\$65.36		\$61.88 - \$68.85
Exempt	\$186.94	N/A	01/01/2019	12/31/2019	\$67.98	4.00%	\$64.36 - \$71.60
Resident Engineer/CM Facilities	\$194.42	N/A	01/01/2020	12/31/2020	\$70.70	4.00%	\$66.93 - \$74.47
Exempt	\$179.22	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$186.39	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Resident Engineer/CM Utilities	\$193.84	N/A	01/01/2020	12/31/2020	\$70.49	4.00%	\$64.12 - \$86.05
Exempt	\$179.22	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$186.39	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Resident Engineer/CM Roads	\$193.84	N/A	01/01/2020	12/31/2020	\$70.49	4.00%	\$64.12 - \$86.05
Exempt	\$179.22	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$186.39	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Scheduler	\$193.84	N/A	01/01/2020	12/31/2020	\$70.49	4.00%	\$64.12 - \$86.05
Exempt	\$179.22	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$186.39	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Estimator	\$179.42	N/A	01/01/2020	12/31/2020	\$65.24	4.00%	\$59.61 - \$65.85
Exempt	\$165.88	N/A	11/14/2017	12/31/2018	\$60.32		\$57.32 - \$63.32
Exempt	\$172.52	N/A	01/01/2019	12/31/2019	\$62.73	4.00%	\$59.61 - \$65.85
Exempt	\$179.42	N/A	01/01/2020	12/31/2020	\$65.24	4.00%	\$62.00 - \$68.49
Constructability Review	\$172.52	N/A	01/01/2019	12/31/2019	\$62.73	4.00%	\$59.61 - \$65.85
Exempt	\$179.42	N/A	01/01/2020	12/31/2020	\$65.24	4.00%	\$62.00 - \$68.49
Document Control Specialist	\$158.94	N/A	11/14/2017	12/31/2018	\$57.80		\$54.76 - \$60.84
Exempt	\$165.30	N/A	01/01/2019	12/31/2019	\$60.11	4.00%	\$56.95 - \$63.27
Inspector*	\$171.91	N/A	01/01/2020	12/31/2020	\$62.51	4.00%	\$59.22 - \$65.80
Exempt	\$85.56	N/A	11/14/2017	12/31/2018	\$31.11		\$26.00 - \$36.22
Exempt	\$88.98	N/A	01/01/2019	12/31/2019	\$32.36	4.00%	\$27.04 - \$37.67
Inspector*	\$92.54	N/A	01/01/2020	12/31/2020	\$33.65	4.00%	\$28.12 - \$39.18
Non-Exempt	N/A	N/A	11/14/2017	12/31/2018	\$62.37		\$60.65 - \$64.09
Non-Exempt	N/A	N/A	01/01/2019	12/31/2019	\$64.86	4.00%	\$63.07 - \$66.65
Non-Exempt	N/A	N/A	01/01/2020	12/31/2020	\$67.45	4.00%	\$65.59 - \$69.32

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.

3. 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 asterisk (\*)

For "Other Direct Cost" listing, see page 2 of this Exhibit

**EXHIBIT 10-H COST PROPOSAL PAGE 2 OF 3**  
**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

MARRS Services, Inc. Contract No. TBD Date 11/14/2017

**Field Office** Fringe Benefit 0.00% + Overhead 0.00 % + General Administration 0.00% = Combined Indirect Cost Rate (ICR) 0%  
 0% 125% 125% FEE % = 10%

**BILLING INFORMATION**

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup> - Field Office			Effective date of hourly rate		Actual or Ave. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x)	OT(2x)	From	To			
Officer-in-Charge	N/A	N/A	N/A	11/14/2017	12/31/2018	\$90.00		\$85.00 - \$100.00
Exempt	N/A	N/A	N/A	01/01/2019	12/31/2019	\$93.60	4.00%	\$88.40 - \$104.00
Project Manager/Construction Manager	N/A	N/A	N/A	01/01/2020	12/31/2020	\$97.34	4.00%	\$91.94 - \$108.16
Exempt	\$161.78	N/A	N/A	11/14/2017	12/31/2018	\$65.36		\$61.88 - \$68.85
Exempt	\$168.25	N/A	N/A	01/01/2019	12/31/2019	\$67.98	4.00%	\$64.36 - \$71.60
Exempt	\$174.98	N/A	N/A	01/01/2020	12/31/2020	\$70.70	4.00%	\$66.93 - \$74.47
Resident Engineer/CM Facilities	\$161.30	N/A	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$167.75	N/A	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Exempt	\$174.46	N/A	N/A	01/01/2020	12/31/2020	\$70.49	4.00%	\$64.12 - \$86.05
Resident Engineer/CM Utilities	\$161.30	N/A	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$167.75	N/A	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Exempt	\$174.46	N/A	N/A	01/01/2020	12/31/2020	\$70.49	4.00%	\$64.12 - \$86.05
Resident Engineer/CM Roads	\$161.30	N/A	N/A	11/14/2017	12/31/2018	\$65.17		\$59.28 - \$79.56
Exempt	\$167.75	N/A	N/A	01/01/2019	12/31/2019	\$67.78	4.00%	\$61.65 - \$82.74
Exempt	\$174.46	N/A	N/A	01/01/2020	12/31/2020	\$70.49	4.00%	\$64.12 - \$86.05
Scheduler	\$149.29	N/A	N/A	11/14/2017	12/31/2018	\$60.32		\$57.32 - \$63.32
Exempt	\$155.26	N/A	N/A	01/01/2019	12/31/2019	\$62.73	4.00%	\$59.61 - \$65.85
Exempt	\$161.47	N/A	N/A	01/01/2020	12/31/2020	\$65.24	4.00%	\$62.00 - \$68.49
Estimator	\$149.29	N/A	N/A	11/14/2017	12/31/2018	\$60.32		\$57.32 - \$63.32
Exempt	\$155.26	N/A	N/A	01/01/2019	12/31/2019	\$62.73	4.00%	\$59.61 - \$65.85
Exempt	\$161.47	N/A	N/A	01/01/2020	12/31/2020	\$65.24	4.00%	\$62.00 - \$68.49
Constructability Review	\$143.05	N/A	N/A	11/14/2017	12/31/2018	\$57.80		\$54.76 - \$60.84
Exempt	\$148.77	N/A	N/A	01/01/2019	12/31/2019	\$60.11	4.00%	\$56.95 - \$63.27
Document Control Specialist	\$77.00	N/A	N/A	01/01/2020	12/31/2020	\$62.51	4.00%	\$59.22 - \$65.80
Exempt	\$80.08	N/A	N/A	01/01/2019	12/31/2019	\$32.36	4.00%	\$26.00 - \$36.22
Exempt	\$83.28	N/A	N/A	01/01/2020	12/31/2020	\$33.65	4.00%	\$27.04 - \$37.67
Inspector*	\$154.35	\$185.54	\$216.72	11/14/2017	12/31/2018	\$62.37		\$60.65 - \$64.09
Exempt	\$160.53	\$192.96	\$225.39	01/01/2019	12/31/2019	\$64.86	4.00%	\$63.07 - \$66.65
Non-Exempt	\$166.95	\$200.68	\$234.40	01/01/2020	12/31/2020	\$67.45	4.00%	\$65.59 - \$69.32

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.

3. 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

**EXHIBIT 10-H COST PROPOSAL** PAGE 3 OF 3  
**SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)**  
**(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)**

Consultant or Subconsultant

MARRS Services, Inc.

Contract No. TBD

Date 11/14/2017

**SCHEDULE OF OTHER DIRECT COST ITEMS**

PRIME CONSULTANT MARRS Services Inc.				SUBCONSULTANT #1 Nimvo & Moore				SUBCONSULTANT #2 Towill, Inc.			
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
<b>Special Tooling</b>				<b>Special Tooling</b>				<b>Special Tooling</b>			
A. Outside Printing & Reintroduction	Each	At cost		Laboratory Testing		See attached		A. Rental Equipment	Per Day	TBD	At Cost
B.				(In Accordance with the				B. HD Scanner	Per Day	\$650	TBD
C.				Attached Schedule of fees				C.			
<b>Travel</b>				for Laboratory Testing)				<b>Travel</b>			
A. Mileage-Personal Vehicle	Mile	IRS Rate		<b>Travel</b>				A. Non-owned Vehicle Mileage	Per Mile	IRS Rate	TBD
B. Rental Car	Day	At cost		A. Field Vehicle &				B. Lodging/Airfare		TBD	At Cost
C. Parking, tolls and local transportation costs	Each	At cost		Equipment Usage	Hour	\$12		C.			
<b>Other</b>				per hour				<b>Shipping/Prints</b>			
A. FedEx/US Postal/UPS	Each	At cost		<b>Other</b>				A. Shipping Delivery	Per Plg	TBD	At Cost
B.				Drill Rig (per hour)	Hour	\$400		<b>Other</b>			
C.				(Subcontractor)				A. Consumable Survey Materials	Per Unit	TBD	At Cost
								B. Fees/Permits	Per Unit	TBD	At Cost
PRIME TOTAL ODCs =			\$0	SUBCONSULTANT #1 ODCs =			\$0	SUBCONSULTANT #2 ODCs =			\$0

**IMPORTANT NOTES:**

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 purpose. that could be used for the same purpose.



**EXHIBIT 10-H COST PROPOSAL 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**

Ninvo & Moore Contract No. TBD Date 11/08/2017

Fringe Benefit 46.00% + Overhead 57.00 % + General Administration 40.00% = 143.00% Combined Indirect Cost Rate (ICR)  
 (= 0% if Included in OH) (= 0% if Included in OH)

FEE % = 10%

**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			
Kurt Yoshii, PE, GE	\$213.33	N/A	N/A	11/01/2017	12/31/2018	\$79.81		
Principal Engineer/Geologist/Environmental Scientist	\$221.87	N/A	N/A	01/01/2019	12/31/2019	\$83.00	4.00%	Not Applicable
Principal-in-Charge	\$230.74	N/A	N/A	01/01/2020	12/31/2020	\$86.32	4.00%	
Exempt								
Michael Putt, PG, CEG	\$168.35	N/A	N/A	11/01/2017	12/31/2018	\$62.98		Not Applicable
Principal Engineer/Geologist/Environmental Scientist	\$175.08	N/A	N/A	01/01/2019	12/31/2019	\$65.50	4.00%	
Project Geologist	\$182.08	N/A	N/A	01/01/2020	12/31/2020	\$68.12	4.00%	
Exempt								
Principal Engineer/Geologist/Environmental Scientist	\$193.71	N/A	N/A	11/01/2017	12/31/2018	\$72.47		\$54.81 - \$90.13
Senior Engineer/Geologist/Environmental Scientist	\$201.46	N/A	N/A	01/01/2019	12/31/2019	\$75.37	4.00%	
Exempt	\$209.52	N/A	N/A	01/01/2020	12/31/2020	\$78.38	4.00%	
Senior Engineer/Geologist/Environmental Scientist	\$158.54	N/A	N/A	11/01/2017	12/31/2018	\$59.31		\$50.48 - \$68.13
Senior Project Engineer/Geologist/Environmental Scientist	\$164.88	N/A	N/A	01/01/2019	12/31/2019	\$61.68	4.00%	
Exempt	\$171.47	N/A	N/A	01/01/2020	12/31/2020	\$64.15	4.00%	
Senior Project Engineer/Geologist/Environmental Scientist	\$143.59	N/A	N/A	11/01/2017	12/31/2018	\$53.72		\$49.04 - \$58.40
Senior Project Engineer/Geologist/Environmental Scientist	\$149.34	N/A	N/A	01/01/2019	12/31/2019	\$55.87	4.00%	
Exempt	\$155.31	N/A	N/A	01/01/2020	12/31/2020	\$58.10	4.00%	

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3. For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

**NOTES:**

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For "Other Direct Cost" listing, see page 2 of this Exhibit

**EXHIBIT 10-H COST PROPOSAL** 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**

Ninyo & Moore

Contract No. TBD

Date 11/08/2017

Fringe Benefit 46.00% +  
 (= 0% if Included in OH)

Overhead 57.00 %  
 (= 0% if Included in OH)

+ General Administration 40.00% =

143.00%

Combined Indirect Cost Rate (ICR)

FEE % = 10%

**BILLING INFORMATION**

**CALCULATION INFORMATION**

Name/Job Title/Classification <sup>1</sup>	Straight	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
		OT(1.5x)	OT(2x)	From	To			
Project Engineer/Geologist/Environmental Scientist	\$115.98	N/A	N/A	11/01/2017	12/31/2018	\$43.39		
	\$120.62	N/A	N/A	01/01/2019	12/31/2019	\$45.13	4.00%	\$34.62 - \$52.15
Exempt	\$125.45	N/A	N/A	01/01/2020	12/31/2020	\$46.93	4.00%	
Senior Staff Engineer/Geologist/Environmental Scientist	\$87.11	N/A	N/A	11/01/2017	12/31/2018	\$32.59		
	\$90.60	N/A	N/A	01/01/2019	12/31/2019	\$33.89	4.00%	\$24.52-\$40.65
Exempt	\$94.22	N/A	N/A	01/01/2020	12/31/2020	\$35.25	4.00%	
Staff Engineer/Geologist/Environmental Scientist	\$77.44	N/A	N/A	11/01/2017	12/31/2018	\$28.97		
	\$80.53	N/A	N/A	01/01/2019	12/31/2019	\$30.13	4.00%	\$26.44 - \$31.50
Exempt	\$83.76	N/A	N/A	01/01/2020	12/31/2020	\$31.33	4.00%	
CAD/Technical Illustrator	\$83.53	N/A	N/A	11/01/2017	12/31/2018	\$31.25		
	\$86.87	N/A	N/A	01/01/2019	12/31/2019	\$32.50	4.00%	\$20.00 - \$42.50
Exempt	\$90.35	N/A	N/A	01/01/2020	12/31/2020	\$33.80	4.00%	
Data Processor	\$73.00	N/A	N/A	11/01/2017	12/31/2018	\$27.31		
	\$75.92	N/A	N/A	01/01/2019	12/31/2019	\$28.40	4.00%	\$16.25 - \$38.37
Exempt	\$78.96	N/A	N/A	01/01/2020	12/31/2020	\$29.54	4.00%	

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

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3. 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

**EXHIBIT 10-H COST PROPOSAL** 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

Ninyo &amp; Moore

Contract No. TBD

Date 11/08/2017

Fringe Benefit 46.00% +  
(= 0% if Included in OH)

Overhead 57.00 %  
(= 0% if Included in OH)

General Administration 40.00% = 143.00%

Combined Indirect Cost Rate (ICR)

FEE % = 10%

**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			
Group 1-Material Tester*	\$189.30	\$224.71	\$260.12	11/01/2017	12/31/2018	\$70.82		
	\$196.87	\$233.70	\$270.53	01/01/2019	12/31/2019	\$73.65	4.00%	Not Applicable
Non-Exempt	\$204.75	\$243.05	\$281.35	01/01/2020	12/31/2020	\$76.60	4.00%	
Group 2 - Material Tester *	\$194.06	\$230.36	\$266.66	11/01/2017	12/31/2018	\$72.60		Not Applicable
	\$201.82	\$239.57	\$277.33	01/01/2019	12/31/2019	\$75.50	4.00%	
Non-Exempt	\$209.90	\$249.16	\$288.42	01/01/2020	12/31/2020	\$78.52	4.00%	
Group 3 - Material Tester*	\$199.41	\$236.71	\$274.01	11/01/2017	12/31/2018	\$74.60		Not Applicable
	\$207.38	\$246.17	\$284.97	01/01/2019	12/31/2019	\$77.58	4.00%	
Non-Exempt	\$215.68	\$256.02	\$296.36	01/01/2020	12/31/2020	\$80.69	4.00%	

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.

3. 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

**EXHIBIT 10-H COST PROPOSAL** PAGE 2 OF 2  
SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant or Subconsultant

Nimyo & Moore

Contract No. TBD

Date 11/08/2017

SCHEDULE OF OTHER DIRECT COST ITEMS											
PRIME CONSULTANT MARRS Services Inc.				NINYO & MOORE #1 ODCs =				SUBCONSULTANT #2			
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
Special Tooling			\$0	Laboratory Testing				Special Tooling			\$0
A.			\$0	(In Accordance with the				A.			\$0
B.			\$0	Attached Schedule of fees				B.			\$0
C.			\$0	for Laboratory Testing)				C.			\$0
Travel			\$0					Travel			\$0
A.			\$0	A. Field Vehicle &				A.			\$0
B.			\$0	Equipment Usage	1	\$12	\$12	B.			\$0
C.			\$0	per hour				C.			\$0
			\$0								\$0
			\$0	Drill Rig (per hour)	1	\$400	\$400				\$0
			\$0	(Subcontractor)							\$0
			\$0								\$0
PRIME TOTAL ODCs =			\$0	SUBCONSULTANT #1 ODCs =			\$412	SUBCONSULTANT #2 ODCs =			\$0

IMPORTANT NOTES:

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 purpose. that could be used for the same purpose.

### Schedule of Fees for Laboratory Testing

#### Laboratory Test, Test Designation, and Price Per Test

##### SOILS

Atterberg Limits, D 4318, CT 204 .....	\$ 160
California Bearing Ratio (CBR), D 1883 .....	\$ 485
Chloride and Sulfate Content, CT 417 & CT 422 .....	\$ 175
Consolidation, D 2435, CT 219 .....	\$ 300
Consolidation - Time Rate, D 2435, CT 219 .....	\$ 75
Direct Shear - Remolded, D 3080 .....	\$ 325
Direct Shear - Undisturbed, D 3080 .....	\$ 275
Durability Index, CT 229 .....	\$ 165
Expansion Index, D 4829, IBC 18-3 .....	\$ 180
Expansion Potential (Method A), D 4546 .....	\$ 160
Geofabric Tensile and Elongation Test, D 4632 .....	\$ 180
Hydraulic Conductivity, D 5084 .....	\$ 330
Hydrometer Analysis, D 422, CT 203 .....	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils .....	\$ 120
Moisture Only, D 2216, CT 226 .....	\$ 35
Moisture and Density, D 2937 .....	\$ 45
Permeability, CH, D 2434, CT 220 .....	\$ 255
pH and Resistivity, CT 643 .....	\$ 175
Proctor Density D 1557, D 698, CT 216, & AASHTO T-180 (Rock corrections add \$100) .....	\$ 200
R-value, D 2844, CT 301 .....	\$ 295
Sand Equivalent, D 2419, CT 217 .....	\$ 110
Sieve Analysis, D 422, CT 202 .....	\$ 130
Sieve Analysis, 200 Wash, D 1140, CT 202 .....	\$ 100
Specific Gravity, D 854 .....	\$ 100
Thermal Resistivity (ASTM 5334, IEEE 442) .....	\$ 880
Triaxial Shear, C.D, D 4767, T 297 .....	\$ 430
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt. ....	\$ 365
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt. ....	\$ 210
Triaxial Shear, U.U., D 2850 .....	\$ 155
Unconfined Compression, D 2166, T 208 .....	\$ 120
Wax Density, D 1188 .....	\$ 100

##### MASONRY

Brick Absorption, 24-hour submersion, C 67 .....	\$ 50
Brick Absorption, 5-hour boiling, C 67 .....	\$ 60
Brick Absorption, 7-day, C 67 .....	\$ 65
Brick Compression Test, C 67 .....	\$ 50
Brick Efflorescence, C 67 .....	\$ 50
Brick Modulus of Rupture, C 67 .....	\$ 45
Brick Moisture as received, C 67 .....	\$ 40
Brick Saturation Coefficient, C 67 .....	\$ 55
Concrete Block Compression Test, 8x8x16, C 140 .....	\$ 65
Concrete Block Conformance Package, C 90 .....	\$ 485
Concrete Block Linear Shrinkage, C 426 .....	\$ 135
Concrete Block Unit Weight and Absorption, C 140 .....	\$ 60
Cores, Compression or Shear Bond, CA Code .....	\$ 60
Masonry Grout, 3x3x6 prism compression, C 39 .....	\$ 35
Masonry Mortar, 2x4 cylinder compression, C 109 .....	\$ 35
Masonry Prism, half size, compression, C 1019 .....	\$ 120
Masonry Prism, Full size, compression, C 1019 .....	\$ 185

##### REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615 .....	\$ 135
Fireproofing Density Test, UBC 7-6 .....	\$ 60
Hardness Test, Rockwell, A 370 .....	\$ 70
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325 .....	\$ 130
Mechanically Spliced Reinforcing Tensile Test, ACI .....	\$ 150
Pre-Stress Strand (7 wire), A 416 .....	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706 .....	\$ 55
Structural Steel Tensile Test: Up to 200,000 lbs. (machining extra), A 370 .....	\$ 80
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI .....	\$ 60

##### CONCRETE

Compression Tests, 6x12 Cylinder, C 39 .....	\$ 25
Concrete Mix Design Review, Job Spec .....	\$ 155
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI .....	\$ 825
Concrete Cores, Compression (excludes sampling), C 42 .....	\$ 60
Drying Shrinkage, C 157 .....	\$ 350
Flexural Test, C 78 .....	\$ 65
Flexural Test, C 293 .....	\$ 60
Flexural Test, CT 523 .....	\$ 80
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI .....	\$ 275
Jobsite Testing Laboratory .....	Quote
Lightweight Concrete Fill, Compression, C 495 .....	\$ 45
Petrographic Analysis, C 856 .....	\$ 1,900
Restrained Expansion of Shrinkage Compensation .....	\$ 270
Splitting Tensile Strength, C 496 .....	\$ 90
3x6 Grout, (CLSM), C 39 .....	\$ 45
2x2x2 Non-Shrink Grout, C 109 .....	\$ 45

##### ASPHALT CONCRETE

Air Voids, T 269 .....	\$ 50
Asphalt Mix Design, Caltrans (excl. Aggregate Quality) .....	\$ 2,800
Asphalt Mix Design Review, Job Spec .....	\$ 165
Dust Proportioning, CT LP-4 .....	\$ 50
Extraction, % Asphalt, including Gradation, D 2172, CT 382 .....	\$ 240
Film Stripping, CT 302 .....	\$ 110
Hveem Stability and Unit Weight D 1560, T 246, CT 366 .....	\$ 215
Marshall Stability, Flow and Unit Weight, T 245 .....	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309 .....	\$ 160
Moisture Content, CT 370 .....	\$ 85
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371 .....	\$ 1,000
Slurry Wet Track Abrasion, D 3910 .....	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality) .....	\$ 5,200
Superpave, Gyration Unit Wt., T 312 .....	\$ 75
Superpave, Hamburg Wheel, 20,000 passes, T 324 .....	\$ 1,000
Unit Weight sample or core, D 2726, CT 308 .....	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2 .....	\$ 50
Voids filled with Asphalt, (VFA) CT LP-3 .....	\$ 50

##### AGGREGATES

Clay Lumps and Friable Particles, C 142 .....	\$ 160
Cleanliness Value, CT 227 .....	\$ 160
Crushed Particles, CT 205 .....	\$ 165
Durability, Coarse or Fine, CT 229 .....	\$ 195
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234 .....	\$ 180
Flat and Elongated Particle, D 4791 .....	\$ 220
Lightweight Particles, C 123 .....	\$ 180
Los Angeles Abrasion, C 131 or C 535 .....	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117 .....	\$ 75
Organic Impurities, C 40 .....	\$ 80
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260 .....	\$ 950
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260 .....	\$ 1,250
Potential Reactivity of Aggregate (Chemical Method), C 289 .....	\$ 450
Sand Equivalent, T 176, CT 217 .....	\$ 110
Sieve Analysis, Coarse Aggregate, T 27, C 136 .....	\$ 115
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136 .....	\$ 130
Sodium Sulfate Soundness, C 88 .....	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206 .....	\$ 100
Specific Gravity and Absorption, Fine, C 128, CT 207 .....	\$ 160

##### ROOFING

Roofing Tile Absorption, (set of 5), C 67 .....	\$ 210
Roofing Tile Strength Test, (set of 5), C 67 .....	\$ 210

Special preparation of standard test specimens will be charged at the technician's hourly rate.  
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.



**EXHIBIT 10-H COST PROPOSAL (Example #2)** Page 1 of 3  
 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**

Towill, Inc. Contract No.: Date: 11/13/2017

Fringe Benefit % + Overhead % + General Administration % = Combined Indirect Cost Rate (ICR) %  
 (= 0% if Included in OH) 41.00% + 80.08% 64.00% 185.08%  
 FEE % 10%

**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			
J. Marty Smith/Survey PM (Exempt)	\$167.77	N/A	N/A	11/01/2017	12/31/2018	53.50	0.00%	Not Applicable
	\$174.48	N/A	N/A	01/01/2019	12/31/2019	55.64	4.00%	
	\$181.47	N/A	N/A	01/01/2020	12/31/2020	57.87	4.00%	
James Ries/Survey PM (Exempt)	\$163.07	N/A	N/A	11/01/2017	12/31/2018	52.00	0.00%	Not Applicable
	\$169.59	N/A	N/A	01/01/2019	12/31/2019	54.08	4.00%	
	\$176.36	N/A	N/A	01/01/2020	12/31/2020	56.24	4.00%	
Nick Lewis/LS Party Chief*	\$167.80	\$194.56	\$221.31	11/01/2017	09/30/2018	53.51	0.00%	Not Applicable
Prevailing Wage	\$0.00	\$0.00	\$0.00	10/01/2018	09/30/2019		TBD	
Prevailing Wage	\$0.00	\$0.00	\$0.00	10/01/2019	09/30/2020		TBD	
Principal Land Surveyor (Exempt)	\$252.44	N/A	N/A	11/01/2017	12/31/2018	80.50	0.00%	\$ 66.00 - \$ 95.00
	\$262.54	N/A	N/A	01/01/2019	12/31/2019	83.72	4.00%	\$ 67.98 - \$ 97.85
	\$273.04	N/A	N/A	01/01/2020	12/31/2020	87.07	4.00%	\$ 70.02 - \$ 100.79
Project Surveyor	\$153.66	\$178.16	\$202.66	11/01/2017	12/31/2018	49.00	0.00%	\$ 48.00 - \$ 50.00
	\$159.80	\$185.28	\$210.76	01/01/2019	12/31/2019	50.96	4.00%	\$ 49.44 - \$ 51.50
	\$166.20	\$192.70	\$219.20	01/01/2020	12/31/2020	53.00	4.00%	\$ 50.92 - \$ 53.05
Associate Surveyor	\$147.01	\$170.45	\$193.89	11/01/2017	12/31/2018	46.88	0.00%	\$ 45.00 - \$ 48.76
	\$152.91	\$177.29	\$201.67	01/01/2019	12/31/2019	48.76	4.00%	\$ 46.35 - \$ 50.22
	\$159.02	\$184.38	\$209.73	01/01/2020	12/31/2020	50.71	4.00%	\$ 47.74 - \$ 51.73
Survey Office Technician	\$112.11	\$129.99	\$147.86	11/01/2017	12/31/2018	35.75	0.00%	\$ 34.00 - \$ 37.50
	\$116.59	\$135.18	\$153.77	01/01/2019	12/31/2019	37.18	4.00%	\$ 35.02 - \$ 38.63
	\$121.28	\$140.60	\$159.93	01/01/2020	12/31/2020	38.67	4.00%	\$ 36.07 - \$ 39.79
Survey CADD Technician	\$83.88	\$97.26	\$110.63	11/01/2017	12/31/2018	26.75	0.00%	\$ 24.50 - \$ 29.00
	\$87.24	\$101.15	\$115.06	01/01/2019	12/31/2019	27.82	4.00%	\$ 25.24 - \$ 29.87
	\$90.72	\$105.19	\$119.65	01/01/2020	12/31/2020	28.93	4.00%	\$ 26.00 - \$ 30.77
Geomatics Project Manager (Exempt)	\$187.37	N/A	N/A	11/01/2017	12/31/2018	59.75	0.00%	\$ 53.00 - \$ 66.50
	\$194.86	N/A	N/A	01/01/2019	12/31/2019	62.14	4.00%	\$ 54.59 - \$ 68.50
	\$202.87	N/A	N/A	01/01/2020	12/31/2020	64.63	4.00%	\$ 56.23 - \$ 70.56
Senior Geomatics Analyst	\$136.41	\$158.16	\$179.91	11/01/2017	12/31/2018	43.50	0.00%	\$ 42.00 - \$ 45.00
	\$141.87	\$164.49	\$187.11	01/01/2019	12/31/2019	45.24	4.00%	\$ 43.26 - \$ 46.35
	\$147.54	\$171.07	\$194.59	01/01/2020	12/31/2020	47.05	4.00%	\$ 44.56 - \$ 47.74
Geomatics Analyst	\$107.40	\$124.53	\$141.65	11/01/2017	12/31/2018	34.25	0.00%	\$ 31.50 - \$ 37.00
	\$111.70	\$129.51	\$147.32	01/01/2019	12/31/2019	35.82	4.00%	\$ 32.45 - \$ 36.11
	\$116.15	\$134.67	\$153.19	01/01/2020	12/31/2020	37.04	4.00%	\$ 33.42 - \$ 39.25
Geomatics Technician	\$77.61	\$89.99	\$102.36	11/01/2017	12/31/2018	24.75	0.00%	\$ 21.00 - \$ 25.50
	\$80.72	\$93.59	\$106.46	01/01/2019	12/31/2019	25.74	4.00%	\$ 21.63 - \$ 26.36
	\$83.95	\$97.34	\$110.72	01/01/2020	12/31/2020	26.77	4.00%	\$ 22.28 - \$ 30.24
Project Coordinator	\$76.83	\$89.08	\$101.33	11/01/2017	12/31/2018	24.50	0.00%	\$ 18.00 - \$ 31.00
	\$79.90	\$92.64	\$105.38	01/01/2019	12/31/2019	25.48	4.00%	\$ 18.54 - \$ 31.93
	\$83.10	\$96.35	\$109.60	01/01/2020	12/31/2020	26.50	4.00%	\$ 19.10 - \$ 32.89
Project Assistant	\$54.09	\$62.72	\$71.34	11/01/2017	12/31/2018	17.25	0.00%	\$ 15.50 - \$ 19.00
	\$56.26	\$65.23	\$74.20	01/01/2019	12/31/2019	17.94	4.00%	\$ 15.97 - \$ 19.57
	\$58.52	\$67.85	\$77.18	01/01/2020	12/31/2020	18.66	4.00%	\$ 16.45 - \$ 20.16

**EXHIBIT 10-H COST PROPOSAL (Example #2)** Page 2 of 3  
 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**:

Towill, Inc. Contract No.: Date: 11/13/2017

Fringe Benefit % + 41.00% Overhead % + 80.08% General Administration % 64.00% = Combined Indirect Cost Rate (ICR) % 185.08%  
 (= 0% if Included in OH) (= 0% if Included in OH)

FEE % 10%

**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		
CADD Technician (Intern)	\$56.45	\$65.45	\$74.45	11/01/2017	12/31/2018	18.00	\$ 18.00 - \$ 18.00
	\$58.70	\$68.06	\$77.42	01/01/2019	12/31/2019	18.72	\$ 18.54 - \$ 18.54
	\$61.06	\$70.80	\$80.53	01/01/2020	12/31/2020	19.47	\$ 19.10 - \$ 19.10
Licensed Party Chief*	\$161.84	\$187.65	\$213.45	11/01/2017	09/30/2018	51.61	\$ - - \$ -
Prevailing Wage				10/01/2018	09/30/2019		\$ - - \$ -
Prevailing Wage				10/01/2019	09/30/2020		\$ - - \$ -
Certified Party Chief*	\$159.65	\$185.11	\$210.56	11/01/2017	09/30/2018	50.91	\$ - - \$ -
Prevailing Wage				10/01/2018	09/30/2019		\$ - - \$ -
Prevailing Wage				10/01/2019	09/30/2020		\$ - - \$ -
Party Chief*	\$153.22	\$177.65	\$202.08	11/01/2017	09/30/2018	48.86	\$ - - \$ -
Prevailing Wage				10/01/2018	09/30/2019		\$ - - \$ -
Prevailing Wage				10/01/2019	09/30/2020		\$ - - \$ -
Instrument Man*	\$145.38	\$168.56	\$191.74	11/01/2017	09/30/2018	46.36	\$ - - \$ -
Prevailing Wage				10/01/2018	09/30/2019		\$ - - \$ -
Prevailing Wage				10/01/2019	09/30/2020		\$ - - \$ -
Chainman*	\$143.56	\$166.45	\$189.34	11/01/2017	09/30/2018	45.78	\$ - - \$ -
Prevailing Wage				10/01/2018	09/30/2019		\$ - - \$ -
Prevailing Wage				10/01/2019	09/30/2020		\$ - - \$ -
Apprentice*	\$114.84	\$133.15	\$151.46	11/01/2017	09/30/2018	36.62	\$ - - \$ -
Prevailing Wage				10/01/2018	09/30/2019		\$ - - \$ -
Prevailing Wage				10/01/2019	09/30/2020		\$ - - \$ -

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate \* (1+ICR) \* (1+Fee). Agreed upon billing rates are not adjustable for the term of the contract.

3. 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 Exhibit

**EXHIBIT 10-H COST PROPOSAL** Page 3 of 3  
**SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)**  
**(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)**

Consultant or **Subconsultant:** Towill, Inc. Contract No. \$ - Date: 11/13/2017

**SCHEDULE OF OTHER DIRECT COST ITEMS**

SUBCONSULTANT Towill, Inc.				SUBCONSULTANT Towill, Inc.			
DESCRIPTION OF ITEMS	UNIT	Unit Cost	COST	DESCRIPTION OF ITEMS	UNIT	Unit Cost	COST
Equipment				Shipping/Prints			
A. Rental Equipment	Per Day	TBD	At Cost	A. Shipping Delivery	Per Pkg	TBD	At Cost
B. HD Scanner	Per Day	650	TBD	B.			\$ -
C.			\$ -	C.			\$ -
Travel			\$ -	Other			\$ -
A. Non-owned Vehicle Mileage	Per Mile	IRS Rate	TBD	A. Consumable Survey Materials	Per Unit	TBD	At Cost
B. Lodging/Airfare		TBD	At Cost	B. Fees/Permits	Per Unit	TBD	At Cost
C.			\$ -	C.			\$ -
			\$ -				\$ -
			\$ -				\$ -
<b>SUBCONSULTANT TOTAL ODC'S</b>			<b>\$ -</b>	<b>SUBCONSULTANT TOTAL ODC'S</b>			<b>\$ -</b>
				<b>SUBCONSULTANT #2 TOTAL ODC'S</b>			<b>\$ -</b>

**IMPORTANT NOTES:**

1. List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with the 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": **Not Applicable**

- (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 MARRS Services, 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 MARRS Services, 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:" **Not Applicable**

- (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.

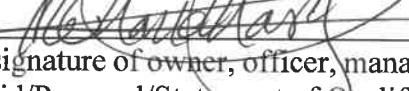
If there has been a determination that the applicant, or any individual associated with the

applicant as discussed herein, has violated the False Claim Act, in attached page(s), label "False Claim Act Information", the following: **Not Applicable**

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

Executed this 5th day of April 2018 at Fullerton, 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]

