



1 these services; provided, however, that access to City documents, records and the  
2 like, if needed by Consultant, shall be available only during City's normal business  
3 hours and provided that milestones for performance, if any, are met.

4 C. Consultant has requested to receive regular payments. City  
5 shall pay Consultant in due course of payments following receipt from Consultant  
6 and approval by City of invoices showing the services or task performed, the time  
7 expended (if billing is hourly), and the name of the Project. Consultant shall certify  
8 on the invoices that Consultant has performed the services in full conformance  
9 with this Agreement and is entitled to receive payment. Each invoice shall be  
10 accompanied by a progress report indicating the progress to date of services  
11 performed and covered by the invoice, including a brief statement of any Project  
12 problems and potential causes of delay in performance, and listing those services  
13 that are projected for performance by Consultant during the next invoice cycle.  
14 Where billing is done and payment is made on an hourly basis, the parties  
15 acknowledge that this arrangement is either customary practice for Consultant's  
16 profession, industry or business, or is necessary to satisfy audit and legal  
17 requirements which may arise due to the fact that City is a municipality.

18 D. Consultant represents that Consultant has obtained all  
19 necessary information on conditions and circumstances that may affect its  
20 performance and has conducted site visits, if necessary.

21 E. CAUTION: Consultant shall not begin work until this  
22 Agreement has been signed by both parties and until Consultant's evidence of  
23 insurance has been delivered to and approved by City.

24 2. TERM. The term of this Agreement shall commence at midnight on  
25 January 31, 2011, and shall terminate at 11:59 p.m. on January 31, 2014, unless sooner  
26 terminated as provided in this Agreement, or unless the services or the Project is  
27 completed sooner.

28 3. COORDINATION AND ORGANIZATION.

1           A. Consultant shall coordinate its performance with City's  
2 representative, if any, named in Exhibit "C", attached to this Agreement and  
3 incorporated by this reference. Consultant shall advise and inform City's  
4 representative of the work in progress on the Project in sufficient detail so as to  
5 assist City's representative in making presentations and in holding meetings on  
6 the Project. City shall furnish to Consultant information or materials, if any,  
7 described in Exhibit "D", attached to this Agreement and incorporated by this  
8 reference, and shall perform any other tasks described in the Exhibit.

9           B. The parties acknowledge that a substantial inducement to City  
10 for entering this Agreement was and is the reputation and skill of Consultant's key  
11 employee, Kurt Yoshii. City shall have the right to approve any person proposed  
12 by Consultant to replace that key employee.

13           4. INDEPENDENT CONTRACTOR. In performing its services,  
14 Consultant is and shall act as an independent contractor and not an employee,  
15 representative or agent of City. Consultant shall have control of Consultant's work and  
16 the manner in which it is performed. Consultant shall be free to contract for similar  
17 services to be performed for others during this Agreement; provided, however, that  
18 Consultant acts in accordance with Section 9 and Section 11 of this Agreement.  
19 Consultant acknowledges and agrees that (a) City will not withhold taxes of any kind from  
20 Consultant's compensation; (b) City will not secure workers' compensation or pay  
21 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide  
22 and Consultant is not entitled to any of the usual and customary rights, benefits or  
23 privileges of City employees. Consultant expressly warrants that neither Consultant nor  
24 any of Consultant's employees or agents shall represent themselves to be employees or  
25 agents of City.

26           5. INSURANCE.

27           A. As a condition precedent to the effectiveness of this  
28 Agreement, Consultant shall procure and maintain, at Consultant's expense for the

1 duration of this Agreement, from insurance companies that are admitted to write  
2 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
3 Company or from authorized non-admitted insurance companies subject to  
4 Section 1763 of the California Insurance Code and that have ratings of or  
5 equivalent to A:VIII by A.M. Best Company, the following insurance:

6 (a) Commercial general liability insurance (equivalent in scope to  
7 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than  
8 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This  
9 coverage shall include but not be limited to broad form contractual liability,  
10 cross liability, independent contractors liability, and products and  
11 completed operations liability. City, its boards and commissions, and their  
12 officials, employees and agents shall be named as additional insureds by  
13 endorsement (on City's endorsement form or on an endorsement  
14 equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or  
15 both CG 20 10 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and  
16 CG 20 37 07 04), and this insurance shall contain no special limitations on  
17 the scope of protection given to City, its boards and commissions, and  
18 their officials, employees and agents. This policy shall be endorsed to  
19 state that the insurer waives its right of subrogation against City, its boards  
20 and commissions, and their officials, employees and agents.

21 (b) Workers' Compensation insurance as required by the California  
22 Labor Code and employer's liability insurance in an amount not less than  
23 \$1,000,000. This policy shall be endorsed to state that the insurer waives  
24 its right of subrogation against City, its boards and commissions, and their  
25 officials, employees and agents.

26 (c) Professional liability or errors and omissions insurance in an  
27 amount not less than \$1,000,000 per claim.

28 (d) Commercial automobile liability insurance (equivalent in scope

1 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an  
2 amount not less than \$500,000 combined single limit per accident.

3 B. Any self-insurance program, self-insured retention, or  
4 deductible must be separately approved in writing by City's Risk Manager or  
5 designee and shall protect City, its officials, employees and agents in the same  
6 manner and to the same extent as they would have been protected had the policy  
7 or policies not contained retention or deductible provisions.

8 C. Each insurance policy shall be endorsed to state that  
9 coverage shall not be reduced, non-renewed or canceled except after thirty (30)  
10 days prior written notice to City, shall be primary and not contributing to any other  
11 insurance or self-insurance maintained by City, and shall be endorsed to state that  
12 coverage maintained by City shall be excess to and shall not contribute to  
13 insurance or self-insurance maintained by Consultant. Consultant shall notify City  
14 in writing within five (5) days after any insurance has been voided by the insurer or  
15 cancelled by the insured.

16 D. If this coverage is written on a "claims made" basis, it must  
17 provide for an extended reporting period of not less than one hundred eighty (180)  
18 days, commencing on the date this Agreement expires or is terminated, unless  
19 Consultant guarantees that Consultant will provide to City evidence of  
20 uninterrupted, continuing coverage for a period of not less than three (3) years,  
21 commencing on the date this Agreement expires or is terminated.

22 E. Consultant shall require that all subconsultants or contractors  
23 that Consultant uses in the performance of these services maintain insurance in  
24 compliance with this Section unless otherwise agreed in writing by City's Risk  
25 Manager or designee.

26 F. Prior to the start of performance, Consultant shall deliver to  
27 City certificates of insurance and the endorsements for approval as to sufficiency  
28 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of

1 the insurance, furnish to City certificates of insurance and endorsements  
2 evidencing renewal of the insurance. City reserves the right to require complete  
3 certified copies of all policies of Consultant and Consultant's subconsultants and  
4 contractors, at any time. Consultant shall make available to City's Risk Manager  
5 or designee all books, records and other information relating to this insurance,  
6 during normal business hours.

7 G. Any modification or waiver of these insurance requirements  
8 shall only be made with the approval of City's Risk Manager or designee. Not  
9 more frequently than once a year, City's Risk Manager or designee may require  
10 that Consultant, Consultant's subconsultants and contractors change the amount,  
11 scope or types of coverages required in this Section if, in his or her sole opinion,  
12 the amount, scope or types of coverages are not adequate.

13 H. The procuring or existence of insurance shall not be  
14 construed or deemed as a limitation on liability relating to Consultant's  
15 performance or as full performance of or compliance with the indemnification  
16 provisions of this Agreement.

17 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
18 contemplates the personal services of Consultant and Consultant's employees, and the  
19 parties acknowledge that a substantial inducement to City for entering this Agreement  
20 was and is the professional reputation and competence of Consultant and Consultant's  
21 employees. Consultant shall not assign its rights or delegate its duties under this  
22 Agreement, or any interest in this Agreement, or any portion of it, without the prior  
23 approval of City, except that Consultant may with the prior approval of the City Manager  
24 of City, assign any moneys due or to become due Consultant under this Agreement. Any  
25 attempted assignment or delegation shall be void, and any assignee or delegate shall  
26 acquire no right or interest by reason of an attempted assignment or delegation.  
27 Furthermore, Consultant shall not subcontract any portion of its performance without the  
28 prior approval of the City Manager or designee, or substitute an approved subconsultant

1 or contractor without approval prior to the substitution. Nothing stated in this Section  
2 shall prevent Consultant from employing as many employees as Consultant deems  
3 necessary for performance of this Agreement.

4           7.    CONFLICT OF INTEREST.    Consultant, by executing this  
5 Agreement, certifies that, at the time Consultant executes this Agreement and for its  
6 duration, Consultant does not and will not perform services for any other client which  
7 would create a conflict, whether monetary or otherwise, as between the interests of City  
8 and the interests of that other client. And, Consultant shall obtain similar certifications  
9 from Consultant's employees, subconsultants and contractors.

10           8.    MATERIALS.    Consultant shall furnish all labor and supervision,  
11 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
12 necessary to or used in the performance of Consultant's obligations under this  
13 Agreement, except as stated in Exhibit "D".

14           9.    OWNERSHIP OF DATA.    All materials, information and data  
15 prepared, developed or assembled by Consultant or furnished to Consultant in  
16 connection with this Agreement, including but not limited to documents, estimates,  
17 calculations, studies, maps, graphs, charts, computer disks, computer source  
18 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
19 information, material and memorandum ("Data") shall be the exclusive property of City.  
20 Data shall be given to City, and City shall have the unrestricted right to use and disclose  
21 the Data in any manner and for any purpose without payment of further compensation to  
22 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that  
23 Data shall not be made available to any person or entity for use without the prior approval  
24 of City. This warranty shall survive termination of this Agreement for five (5) years.

25           10. TERMINATION. Either party shall have the right to terminate this  
26 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days  
27 prior notice to the other party. In the event of termination under this Section, City shall  
28 pay Consultant for services satisfactorily performed and costs incurred up to the effective

1 date of termination for which Consultant has not been previously paid. The procedures  
2 for payment in Section 1.B. with regard to invoices shall apply. On the effective date of  
3 termination, Consultant shall deliver to City all Data developed or accumulated in the  
4 performance of this Agreement, whether in draft or final form, or in process. And,  
5 Consultant acknowledges and agrees that City's obligation to make final payment is  
6 conditioned on Consultant's delivery of the Data to City.

7           11. CONFIDENTIALITY. Consultant shall keep all Data confidential and  
8 shall not disclose the Data or use the Data directly or indirectly, other than in the course  
9 of performing its services, during the term of this Agreement and for five (5) years  
10 following expiration or termination of this Agreement. In addition, Consultant shall keep  
11 confidential all information, whether written, oral or visual, obtained by any means  
12 whatsoever in the course of performing its services for the same period of time.  
13 Consultant shall not disclose any or all of the Data to any third party, or use it for  
14 Consultant's own benefit or the benefit of others except for the purpose of this  
15 Agreement.

16           12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
17 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates  
18 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
19 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
20 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
21 disclosed pursuant to subpoena or court order.

22           13. ADDITIONAL COSTS AND REDESIGN.

23           A. Any costs incurred by City due to Consultant's failure to meet  
24 the standards required by the scope of work or Consultant's failure to perform fully  
25 the tasks described in the scope of work which, in either case, causes City to  
26 request that Consultant perform again all or part of the Scope of Work shall be at  
27 the sole cost of Consultant and City shall not pay any additional compensation to  
28 Consultant for its re-performance.



1           B. If the Project involves construction and the scope of work  
2 requires Consultant to prepare plans and specifications with an estimate of the  
3 cost of construction, then Consultant may be required to modify the plans and  
4 specifications, any construction documents relating to the plans and specifications,  
5 and Consultant's estimate, at no cost to City, when the lowest bid for construction  
6 received by City exceeds by more than ten percent (10%) Consultant's estimate.  
7 This modification shall be submitted in a timely fashion to allow City to receive new  
8 bids within four (4) months after the date on which the original plans and  
9 specifications were submitted by Consultant.

10           14. AMENDMENT. This Agreement, including all Exhibits, shall not be  
11 amended, nor any provision or breach waived, except in writing signed by the parties  
12 which expressly refers to this Agreement.

13           15. LAW. This Agreement shall be governed by and construed pursuant  
14 to the laws of the State of California (except those provisions of California law pertaining  
15 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and  
16 regulations of and obtain all permits, licenses and certificates required by all federal, state  
17 and local governmental authorities.

18           16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
19 constitutes the entire understanding between the parties and supersedes all other  
20 agreements, oral or written, with respect to the subject matter in this Agreement.

21           17. INDEMNITY.

22           A. Consultant shall indemnify, protect and hold harmless City, its  
23 Boards, Commissions, and their officials, employees and agents ("Indemnified  
24 Parties"), from and against any and all liability, claims, demands, damage, loss,  
25 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
26 costs and expenses, including attorneys' fees, court costs, expert and witness  
27 fees, and other costs and fees of litigation, arising or alleged to have arisen, in  
28 whole or in part, out of or in connection with (1) Consultant's breach or failure to

1 comply with any of its obligations contained in this Agreement, or (2) negligent or  
2 willful acts, errors, omissions or misrepresentations committed by Consultant, its  
3 officers, employees, agents, subcontractors, or anyone under Consultant's control,  
4 in the performance of work or services under this Agreement (collectively "Claims"  
5 or individually "Claim").

6 B. In addition to Consultant's duty to indemnify, Consultant shall  
7 have a separate and wholly independent duty to defend Indemnified Parties at  
8 Consultant's expense by legal counsel approved by City, from and against all  
9 Claims, and shall continue this defense until the Claims are resolved, whether by  
10 settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
11 breach, or the like on the part of Consultant shall be required for the duty to defend  
12 to arise. City shall notify Consultant of any Claim, shall tender the defense of the  
13 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,  
14 in the defense.

15 C. If a court of competent jurisdiction determines that a Claim  
16 was caused by the sole negligence or willful misconduct of Indemnified Parties,  
17 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the  
18 court determines sole negligence by the Indemnified Parties, or (2) reduced by the  
19 percentage of willful misconduct attributed by the court to the Indemnified Parties.

20 D. The provisions of this Section shall survive the expiration or  
21 termination of this Agreement.

22 18. AMBIGUITY. In the event of any conflict or ambiguity between this  
23 Agreement and any Exhibit, the provisions of this Agreement shall govern.

24 19. COSTS. If there is any legal proceeding between the parties to  
25 enforce or interpret this Agreement or to protect or establish any rights or remedies under  
26 it, the prevailing party shall be entitled to its costs, including reasonable attorneys' fees.

27 20. NONDISCRIMINATION.

28 A. In connection with performance of this Agreement and subject

1 to applicable rules and regulations, Consultant shall not discriminate against any  
2 employee or applicant for employment because of race, religion, national origin,  
3 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
4 disability. Consultant shall ensure that applicants are employed, and that  
5 employees are treated during their employment, without regard to these bases.  
6 These actions shall include, but not be limited to, the following: employment,  
7 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
8 termination; rates of pay or other forms of compensation; and selection for training,  
9 including apprenticeship.

10 B. It is the policy of City to encourage the participation of  
11 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
12 procurement process, and Consultant agrees to use its best efforts to carry out  
13 this policy in its use of subconsultants and contractors to the fullest extent  
14 consistent with the efficient performance of this Agreement. Consultant may rely  
15 on written representations by subconsultants and contractors regarding their  
16 status. Consultant shall report to City in May and in December or, in the case of  
17 short-term agreements, prior to invoicing for final payment, the names of all  
18 subconsultants and contractors hired by Consultant for this Project and information  
19 on whether or not they are a Disadvantaged, Minority or Women-Owned Business  
20 Enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec.  
21 637).

22 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
23 accordance with the provisions of the Ordinance, this Agreement is subject to the  
24 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
25 Long Beach Municipal Code, as amended from time to time.

26 A. During the performance of this Agreement, the Consultant  
27 certifies and represents that the Consultant will comply with the EBO. The  
28 Consultant agrees to post the following statement in conspicuous places at its

1 place of business available to employees and applicants for employment:

2 "During the performance of a contract with the City of Long Beach,  
3 the Consultant will provide equal benefits to employees with spouses and its  
4 employees with domestic partners. Additional information about the City of  
5 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
6 Long Beach Business Services Division at 562-570-6200."

7 B. The failure of the Consultant to comply with the EBO will be  
8 deemed to be a material breach of the Agreement by the City.

9 C. If the Consultant fails to comply with the EBO, the City may  
10 cancel, terminate or suspend the Agreement, in whole or in part, and monies due  
11 or to become due under the Agreement may be retained by the City. The City  
12 may also pursue any and all other remedies at law or in equity for any breach.

13 D. Failure to comply with the EBO may be used as evidence  
14 against the Consultant in actions taken pursuant to the provisions of Long Beach  
15 Municipal Code 2.93 et seq., Contractor Responsibility.

16 E. If the City determines that the Consultant has set up or used  
17 its contracting entity for the purpose of evading the intent of the EBO, the City may  
18 terminate the Agreement on behalf of the City. Violation of this provision may be  
19 used as evidence against the Consultant in actions taken pursuant to the  
20 provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor  
21 Responsibility.

22 22. NOTICES. Any notice or approval required by this Agreement shall  
23 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
24 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
25 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a  
26 copy to the City Engineer at the same address. Notice of change of address shall be  
27 given in the same manner as stated for other notices. Notice shall be deemed given on  
28 the date deposited in the mail or on the date personal delivery is made, whichever occurs

1 first.

2 23. COPYRIGHTS AND PATENT RIGHTS.

3 A. Consultant shall place the following copyright protection on all  
4 Data: © City of Long Beach, California \_\_\_\_\_, inserting the appropriate year.

5 B. City reserves the exclusive right to seek and obtain a patent  
6 or copyright registration on any Data or other result arising from Consultant's  
7 performance of this Agreement. By executing this Agreement, Consultant assigns  
8 any ownership interest Consultant may have in the Data to City.

9 C. Consultant warrants that the Data does not violate or infringe  
10 any patent, copyright, trade secret or other proprietary right of any other party.  
11 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials  
12 and employees harmless from any and all claims, demands, damages, loss,  
13 liability, causes of action, costs or expenses (including reasonable attorney's fees)  
14 whether or not reduced to judgment, arising from any breach or alleged breach of  
15 this warranty.

16 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
17 that Consultant has not employed or retained any entity or person to solicit or obtain this  
18 Agreement and that Consultant has not paid or agreed to pay any entity or person any  
19 fee, commission or other monies based on or from the award of this Agreement. If  
20 Consultant breaches this warranty, City shall have the right to terminate this Agreement  
21 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct  
22 from payments due under this Agreement or otherwise recover the full amount of the fee,  
23 commission or other monies.

24 25. WAIVER. The acceptance of any services or the payment of any  
25 money by City shall not operate as a waiver of any provision of this Agreement or of any  
26 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
27 Agreement shall not constitute a waiver of any other or subsequent breach of this  
28 Agreement.

1           26.    CONTINUATION. Termination or expiration of this Agreement shall  
2 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
3 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

4           27.    TAX REPORTING. As required by federal and state law, City is  
5 obligated to and will report the payment of compensation to Consultant on Form 1099-  
6 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
7 resulting from payments under this Agreement. Consultant shall submit Consultant's  
8 Employer Identification Number (EIN), or Consultant's Social Security Number if  
9 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of  
10 Financial Management. Consultant acknowledges and agrees that City has no obligation  
11 to pay Consultant until Consultant provides one of these numbers.

12           28.    ADVERTISING. Consultant shall not use the name of City, its  
13 officials or employees in any advertising or solicitation for business or as a reference,  
14 without the prior approval of the City Manager or designee.

15           29.    AUDIT. City shall have the right at all reasonable times during the  
16 term of this Agreement and for a period of five (5) years after termination or expiration of  
17 this Agreement to examine, audit, inspect, review, extract information from and copy all  
18 books, records, accounts and other documents of Consultant relating to this Agreement.

19           30.    THIRD PARTY BENEFICIARY. This Agreement is not intended or  
20 designed to or entered for the purpose of creating any benefit or right for any person or  
21 entity of any kind that is not a party to this Agreement.

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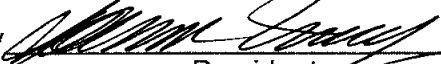
OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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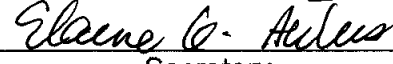
IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS, a California corporation

March 2, 2011, 2011

By   
President  
Avram Ninyo  
Type or Print Name


March 2, 2011, 2011

By   
Secretary  
Elaine O. Autus  
Type or Print Name

"Consultant"

CITY OF LONG BEACH, a municipal corporation - Assistant City Manager

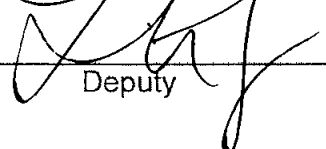
3.24, 2011

By   
City Manager **EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.**

"City"

This Agreement is approved as to form on 3/4, 2011.

ROBERT E. SHANNON, City Attorney

By   
Deputy

# EXHIBIT “A”

Scope of Work



# Appendix A

## Scope of Services

### ON CALL / AS-NEEDED CERTIFIED MATERIALS TESTING AND INSPECTION SERVICES FOR PUBLIC WORKS INFRASTRUCTURE FACILITY PROJECTS

#### A. PROJECT DESCRIPTION AND OVERVIEW

The City of Long Beach, acting through its Department of Public Works, desires to engage the services of one or more Material Testing Laboratories and or Professional Engineering Firms to provide, Certified Materials Testing and Inspection Services and on an on call / as-needed basis for Public Works infrastructure and facilities projects. Inspection services shall be performed by ICC certified deputy inspections. The approximate term of services in anticipated between January 2011 and December 2013.

#### B. DEFINITIONS

OWNER – City of Long Beach

CITY – The City of Long Beach or designated representative.

CONSULTANT – The individual, Partnership, corporation, joint venture, or other legal entity named as such in the contract documents to perform the work.

#### C. BACKGROUND – GENERAL

##### 1.1 CERTIFIED MATERIAL TESTING LABORATORY SERVICES

The Certified Material Testing Laboratory must be currently certified for materials testing and reporting in accordance with AASHTO, Caltrans, Federal ISTEA and Federal Aviation Administration funding requirements, as well as qualified to meet all standards, licenses, reports analysis and recommendations. The consulting laboratory shall coordinate and dispatch qualified personnel to perform material testing and inspection at multiple sites the day following notification. It is desirable that the consulting laboratories have the ability to dispatch qualified personnel. When needed, within four hours. The requested services are typically performed between the hours of 7:00 a.m. and 5 p.m. seven days a week, but may be required on a 24 – hour basis.

### **1.1.2 CERTIFICATION OF COMPLIANCE**

Upon completion of the project the laboratory shall provide under the appropriate professional registration a letter certifying the project.

## **1.2 INSPECTION SERVICES**

Construction Inspection Services are classified in three areas of work as follows:

### **1.2.1 CONSTRUCTION INSPECTION**

Inspects projects in the public right-of-way and insures that they are in compliance with the project plans and specifications including all applicable laws and regulations.

### **1.2.2 SPECIAL INSPECTION**

Provide continuous or periodic deputy inspection service as required by code. Special inspections shall include but is not limited to grading, reinforced concrete, prestressed concrete, masonry, structural steel, steel moment and ductile frames, welding, pile driving, high strength bolts, epoxy anchors, fireproofing, structural observation, and special inspectors shall be duly certified by ICC and other applicable governing agencies, and licensed to perform special inspections in the City of Long Beach.

### **1.2.3 CONSTRUCTION MANAGEMENT**

Oversees the inspection and management of facility and tenant improvement projects.

## **D. BASIC AND OTHER SERVICES**

In addition to the requirements described in the background requirement listed above, this Scope of Work is intended to procure professional services to be provided hereunder shall include, but not be limited to the following:

### **1.3 MATERIAL TESTING LABORATORY SERVICES**

The Material Testing Laboratory Services consist of material testing of specimen of concrete, masonry, aggregates, asphalt and asphalt plant inspection, soils, epoxies, metals, steel reinforcement and welds, diamond bit coring of asphalt, concrete or masonry, environmental sampling and testing of soil and water, including ground water sampling and testing in accordance with Environmental Protection agency (EPA) standards, road rating and profilograph testing streets, and other general laboratory materials tests per the "Standard Specifications for Public Works Construction," 2009 edition.

## **1.4 CONSTRUCTION INSPECTION**

Inspection projects in the public right-of-way and insures that they are in compliance with the project plans and specifications including all applicable laws and regulations.

### **E CITY RESPONSIBILITIES**

1.5 Provide City-side project management as designated by the Director, Engineering Bureau, Planning and Facility Bureau, Redevelopment, Construction Services Officer, Project Management Officer, Division Engineer, Senior Civil Engineer, or other appropriate Public Works Manager.

1.6 Provide **coordination** to avoid interfering with other City construction projects and/or major events.

### **F MISCELLANEOUS/CONSULTANT'S LEAD REPRESENTATIVE**

1.7 Prior to final selection, the City must agree to the Proposing Firm's designated Lead Representative (LR) by review of his or her qualifications contained in the Firm's Proposals as well as his or her performance during the Oral interview. If after a period of time, the City is not satisfied with the work and progress of the LR, another LR shall be furnished by the consultant firm. The LR, once selected, shall not be replaced, unless approved by the City.

# EXHIBIT “B”

Rates or Charges

**SCHEDULE OF FEES**  
 January 31, 2011 to January 31, 2014

**HOURLY CHARGES FOR PERSONNEL**

Principal Engineer/Geologist/Environmental Scientist.....	\$ 154
Senior Engineer/Geologist/Environmental Scientist.....	\$ 148
Senior Project Engineer/Geologist/Environmental Scientist.....	\$ 145
Project Engineer/Geologist/Environmental Scientist.....	\$ 142
Senior Staff Engineer/Geologist/Environmental Scientist.....	\$ 128
Staff Engineer/Geologist/Environmental Scientist.....	\$ 120
GIS Analyst.....	\$ 120
Field Operations Manager.....	\$ 95
Supervisory Technician*.....	\$ 93
Nondestructive Examination Technician*, UT, MT, LP.....	\$ 91
Senior Field/Laboratory Technician*.....	\$ 85
Field/Laboratory Technician*.....	\$ 85
ACI Concrete Technician*.....	\$ 85
Concrete/Asphalt Batch Plant Inspector*.....	\$ 85
Special Inspector (Concrete, Masonry, Steel, Welding, and Fireproofing)*.....	\$ 85
Technical Illustrator/CAD Operator.....	\$ 78
Geotechnical/Environmental/Laboratory Assistant.....	\$ 66
Information Specialist.....	\$ 66
Data Processing, Technical Editing, or Reproduction.....	\$ 58

**OTHER CHARGES**

Expert Witness Testimony.....	\$ 400 /hr
Concrete Coring Equipment (includes one technician).....	\$ 160 /hr
PID/FID Usage.....	\$ 120 /day
Anchor load test equipment (includes technician).....	\$ 89 /hr
Hand Auger Equipment.....	\$ 55 /day
Inclinometer Usage.....	\$ 32 /hr
Vapor Emission Kits.....	\$ 30 /kit
Level D Personal Protective Equipment (per person per day).....	\$ 25 /p/d
Rebar Locator (Pachometer).....	\$ 22 /hr
Nuclear Density Gauge Usage.....	\$ 12 /hr
Field Vehicle Usage.....	\$ 10 /hr
Direct Project Expenses.....	Cost
Laboratory testing, geophysical equipment, and other special equipment provided upon request.	

**NOTES (Field Services)**

For field and laboratory technicians and special inspectors, regular hourly rates are charged during normal weekday construction hours. Overtime rates at 1.5 times the regular rates will be charged for work performed outside normal construction hours and all day on Saturdays. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day or on Sundays and holidays. Lead time for any requested service is 24 hours. Field Technician rates are based on a 2-hour minimum. Special inspection rates are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours. Field personnel are charged portal to portal.

**INVOICES**

Invoices will be submitted monthly and are due upon receipt. A service charge of 1.0 percent per month may be charged on accounts not paid within 30 days.

**SCHEDULE OF FEES FOR LABORATORY TESTING**  
**Laboratory Test, Test Designation, and Price Per Test**

<b>Soils</b>		<b>Concrete</b>	
Atterberg Limits, D 4318, CT 204.....	\$ 145	Cement Analysis Chemical and Physical, C 109.....	\$ 1,650
California Bearing Ratio (CBR), D 1883.....	\$ 440	Compression Tests, 6x12 Cylinder, C 39.....	\$ 22
Chloride and Sulfate Content, CT 417 & CT 422.....	\$ 135	Concrete Mix Design Review, Job Spec.....	\$ 140
Consolidation, D 2435, CT 219.....	\$ 275	Concrete Mix Design, per Trial Batch, 6 cylinder, ACI.....	\$ 750
Consolidation - Time Rate, D 2435, CT 219.....	\$ 70	Concrete Cores, Compression (excludes sampling), C 42.....	\$ 55
Direct Shear - Remolded, D 3080.....	\$ 290	Drying Shrinkage, C 157.....	\$ 250
Direct Shear - Undisturbed, D 3080.....	\$ 250	Flexural Test, C 78.....	\$ 50
Durability Index, CT 229.....	\$ 150	Flexural Test, C 293.....	\$ 55
Expansion Index, D 4829, UBC 18-2.....	\$ 165	Flexural Test, CT 523.....	\$ 60
Expansion Potential (Method A), D 4546.....	\$ 145	Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI.....	\$ 250
Expansive Pressure (Method C), D 4546.....	\$ 145	Jobsite Testing Laboratory.....	Quote
Geofabric Tensile and Elongation Test, D 4632.....	\$ 165	Lightweight Concrete Fill, Compression, C 495.....	\$ 40
Hydraulic Conductivity, D 5084.....	\$ 300	Petrographic Analysis, C 856.....	\$ 1,100
Hydrometer Analysis, D 422, CT 203.....	\$ 190	Splitting Tensile Strength, C 496.....	\$ 80
Moisture, Ash, & Organic Matter of Peat/Organic Soils.....	\$ 110	<b>Reinforcing and Structural Steel</b>	
Moisture Only, D 2216, CT 226.....	\$ 30	Fireproofing Density Test, UBC 7-6.....	\$ 55
Moisture and Density, D 2937.....	\$ 39	Hardness Test, Rockwell, A-370.....	\$ 50
Permeability, CH, D 2434, CT 220.....	\$ 230	High Strength Bolt, Nut & Washer Conformance, set, A-325.....	\$ 120
pH and Resistivity, CT 643.....	\$ 140	Mechanically Spliced Reinforcing Tensile Test, ACI.....	\$ 95
Proctor Density D 1557, D 698, CT 216, &.....	\$ 180	Pre-Stress Strand (7 wire), A 416.....	\$ 140
AASHTO T-180 (Rock corrections add \$80)		Chemical Analysis, A-36, A-615.....	\$ 120
R-value, D 2844, CT 301.....	\$ 250	Reinforcing Tensile or Bend up to No. 11, A 615 & A 706.....	\$ 50
Sand Equivalent, D 2419, CT 217.....	\$ 90	Structural Steel Tensile Test: Up to 200,000 lbs.	
Sieve Analysis, D 422, CT 202.....	\$ 110	(machining extra), A 370.....	\$ 70
Sieve Analysis, 200 Wash, D 1140, CT 202.....	\$ 90	Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI.....	\$ 55
Specific Gravity, D 854.....	\$ 90	<b>Asphalt Concrete</b>	
Triaxial Shear, C.D, D 4767, T 297.....	\$ 390	Asphalt Mix Design, Caltrans.....	\$ 2,200
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt. \$	\$ 330	Asphalt Mix Design Review, Job Spec.....	\$ 150
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt. \$	\$ 190	Extraction, % Asphalt, including Gradation, D 2172, CT 310.....	\$ 215
Triaxial Shear, U.U., D 2850.....	\$ 140	Film Stripping, CT 302.....	\$ 100
Unconfined Compression, D 2166, T 208.....	\$ 100	Hveem Stability and Unit Weight CTM or ASTM, CT 366.....	\$ 195
Wax Density, D 1188.....	\$ 90	Marshall Stability, Flow and Unit Weight, T-245.....	\$ 215
<b>Roofing</b>		Maximum Theoretical Unit Weight, D 2041.....	\$ 120
Built-up Roofing, cut-out samples, D 2829.....	\$ 165	Swell, CT 305.....	\$ 165
Roofing Materials Analysis, D 2829.....	\$ 500	Unit Weight sample or core, D 2726, CT 308.....	\$ 90
Roofing Tile Absorption, (set of 5), UBC 15-5.....	\$ 190	<b>Aggregates</b>	
Roofing Tile Strength Test, (set of 5), UBC 15-5.....	\$ 190	Absorption, Coarse, C 127.....	\$ 35
<b>Masonry</b>		Absorption, Fine, C 128.....	\$ 35
Brick Absorption, 24-hour submersion, C 67.....	\$ 45	Clay Lumps and Friable Particles, C 142.....	\$ 100
Brick Absorption, 5-hour boiling, C 67.....	\$ 55	Cleaness Value, CT 227.....	\$ 120
Brick Absorption, 7-day, C 67.....	\$ 60	Crushed Particles, CT 205.....	\$ 140
Brick Compression Test, C 67.....	\$ 45	Durability, Coarse, CT 229.....	\$ 130
Brick Efflorescence, C 67.....	\$ 45	Durability, Fine, CT 229.....	\$ 130
Brick Modulus of Rupture, C 67.....	\$ 40	Los Angeles Abrasion, C 131 or C 535.....	\$ 180
Brick Moisture as received, C 67.....	\$ 35	Mortar making properties of fine aggregate, C 87.....	\$ 275
Brick Saturation Coefficient, C 67.....	\$ 50	Organic Impurities, C 40.....	\$ 55
Concrete Block Compression Test, 8x8x16, C 140.....	\$ 60	Potential Reactivity of Aggregate (Chemical Method), C 289.....	\$ 390
Concrete Block Conformance Package, C 90.....	\$ 440	Sand Equivalent, CT 217.....	\$ 90
Concrete Block Linear Shrinkage, C 426.....	\$ 120	Sieve Analysis, Coarse Aggregate, C 136.....	\$ 105
Concrete Block Unit Weight and Absorption, C 140.....	\$ 55	Sieve Analysis, Fine Aggregate (including wash), C 136.....	\$ 105
Cores, Compression or Shear Bond, CA Code.....	\$ 55	Sodium Sulfate Soundness (per size fraction), C 88.....	\$ 160
Masonry Grout, 3x3x6 prism compression, UBC 21-18.....	\$ 30	Specific Gravity, Coarse, C 127.....	\$ 75
Masonry Mortar, 2x4 cylinder compression, UBC 21-16.....	\$ 30	Specific Gravity, Fine, C 128.....	\$ 85
Masonry Prism, half size, compression, UBC 21-17.....	\$ 110		

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 “C”

City’s Representative:

Gillis Monroe, Construction Officer

## **Exhibit “D”**

**The City does not provide any materials or information and no other tasks are required.**

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