



1 fiscal year shall be contingent upon the City Council of the City appropriating the  
2 necessary funds for such payment by the City in each fiscal year during the term of  
3 this Agreement. For the purposes of this Section, a fiscal year commences on  
4 October 1 of the year and continues through September 30 of the following year. In  
5 the event that the City Council of the City fails to appropriate the necessary funds  
6 for any fiscal year, then, and in that event, the Agreement will terminate at no  
7 additional cost or obligation to the City.

8 C. Consultant may select the time and place of performance for  
9 these services; provided, however, that access to City documents, records and the  
10 like, if needed by Consultant, shall be available only during City's normal business  
11 hours and provided that milestones for performance, if any, are met.

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

26 E. Consultant represents that Consultant has obtained all  
27 necessary information on conditions and circumstances that may affect its  
28 performance and has conducted site visits, if necessary.

1 F. CAUTION: Consultant shall not begin work until this  
2 Agreement has been signed by both parties and until Consultant's evidence of  
3 insurance has been delivered to and approved by City.

4 2. TERM. The term of this Agreement shall commence at midnight on  
5 September 1, 2019, and shall terminate at 11:59 p.m. on August 31, 2021, unless sooner  
6 terminated as provided in this Agreement, or unless the services or the Project is  
7 completed sooner.

8 3. COORDINATION AND ORGANIZATION.

9 A. Consultant shall coordinate its performance with City's  
10 representative, if any, named in Exhibit "C", attached to this Agreement and  
11 incorporated by this reference. Consultant shall advise and inform City's  
12 representative of the work in progress on the Project in sufficient detail so as to  
13 assist City's representative in making presentations and in holding meetings on the  
14 Project. City shall furnish to Consultant information or materials, if any, described  
15 in Exhibit "D", attached to this Agreement and incorporated by this reference, and  
16 shall perform any other tasks described in the Exhibit.

17 B. The parties acknowledge that a substantial inducement to City  
18 for entering this Agreement was and is the reputation and skill of Consultant's key  
19 employee, named in Exhibit "E" attached to this Agreement and incorporated by this  
20 reference. City shall have the right to approve any person proposed by Consultant  
21 to replace that key employee.

22 4. INDEPENDENT CONTRACTOR. In performing its services,  
23 Consultant is and shall act as an independent contractor and not an employee,  
24 representative or agent of City. Consultant shall have control of Consultant's work and the  
25 manner in which it is performed. Consultant shall be free to contract for similar services to  
26 be performed for others during this Agreement; provided, however, that Consultant acts in  
27 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges  
28 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;

1 (b) City will not secure workers' compensation or pay unemployment insurance to, for or  
2 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of  
3 the usual and customary rights, benefits or privileges of City employees. Consultant  
4 expressly warrants that neither Consultant nor any of Consultant's employees or agents  
5 shall represent themselves to be employees or agents of City.

6 5. INSURANCE.

7 A. As a condition precedent to the effectiveness of this  
8 Agreement, Consultant shall procure and maintain, at Consultant's expense for the  
9 duration of this Agreement, from insurance companies that are admitted to write  
10 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
11 Company or from authorized non-admitted insurance companies subject to Section  
12 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII  
13 by A.M. Best Company, the following insurance:

14 i. Commercial general liability insurance (equivalent in  
15 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less  
16 than \$1,000,000 per each occurrence and \$2,000,000 general aggregate.  
17 This coverage shall include but not be limited to broad form contractual  
18 liability, cross liability, independent contractors liability, and products and  
19 completed operations liability. City, its boards and commissions, and their  
20 officials, employees and agents shall be named as additional insureds by  
21 endorsement (on City's endorsement form or on an endorsement equivalent  
22 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10  
23 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),  
24 and this insurance shall contain no special limitations on the scope of  
25 protection given to City, its boards and commissions, and their officials,  
26 employees and agents. This policy shall be endorsed to state that the insurer  
27 waives its right of subrogation against City, its boards and commissions, and  
28 their officials, employees and agents.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

iii. Professional liability or errors and omissions insurance in an amount not less than \$1,000,000 per claim.

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

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

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

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

1 the date this Agreement expires or is terminated.

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

6 F. Prior to the start of performance, Consultant shall deliver to City  
7 certificates of insurance and the endorsements for approval as to sufficiency and  
8 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the  
9 insurance, furnish to City certificates of insurance and endorsements evidencing  
10 renewal of the insurance. City reserves the right to require complete certified copies  
11 of all policies of Consultant and Consultant's subconsultants and contractors, at any  
12 time. Consultant shall make available to City's Risk Manager or designee all books,  
13 records and other information relating to this insurance, during normal business  
14 hours.

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

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

24 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
25 contemplates the personal services of Consultant and Consultant's employees, and the  
26 parties acknowledge that a substantial inducement to City for entering this Agreement was  
27 and is the professional reputation and competence of Consultant and Consultant's  
28 employees. Consultant shall not assign its rights or delegate its duties under this

1 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval  
2 of City, except that Consultant may with the prior approval of the City Manager of City,  
3 assign any moneys due or to become due Consultant under this Agreement. Any  
4 attempted assignment or delegation shall be void, and any assignee or delegate shall  
5 acquire no right or interest by reason of an attempted assignment or delegation.  
6 Furthermore, Consultant shall not subcontract any portion of its performance without the  
7 prior approval of the City Manager or designee, or substitute an approved subconsultant  
8 or contractor without approval prior to the substitution. Nothing stated in this Section shall  
9 prevent Consultant from employing as many employees as Consultant deems necessary  
10 for performance of this Agreement.

11 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,  
12 certifies that, at the time Consultant executes this Agreement and for its duration,  
13 Consultant does not and will not perform services for any other client which would create  
14 a conflict, whether monetary or otherwise, as between the interests of City and the interests  
15 of that other client. Consultant further certifies that Consultant does not now have and shall  
16 not acquire any interest, direct or indirect, in the area covered by this Agreement or any  
17 other source of income, interest in real property or investment which would be affected in  
18 any manner or degree by the performance of Consultant's services hereunder. And,  
19 Consultant shall obtain similar certifications from Consultant's employees, subconsultants  
20 and contractors.

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

25 9. OWNERSHIP OF DATA. All materials, information and data  
26 prepared, developed or assembled by Consultant or furnished to Consultant in connection  
27 with this Agreement, including but not limited to documents, estimates, calculations,  
28 studies, maps, graphs, charts, computer disks, computer source documentation, samples,

1 models, reports, summaries, drawings, designs, notes, plans, information, material and  
2 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,  
3 and City shall have the unrestricted right to use and disclose the Data in any manner and  
4 for any purpose without payment of further compensation to Consultant. Copies of Data  
5 may be retained by Consultant but Consultant warrants that Data shall not be made  
6 available to any person or entity for use without the prior approval of City. This warranty  
7 shall survive termination of this Agreement for five (5) years.

8           10. TERMINATION. Either party shall have the right to terminate this  
9 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days  
10 prior written notice to the other party. In the event of termination under this Section, City  
11 shall pay Consultant for services satisfactorily performed and costs incurred up to the  
12 effective date of termination for which Consultant has not been previously paid. The  
13 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective  
14 date of termination, Consultant shall deliver to City all Data developed or accumulated in  
15 the performance of this Agreement, whether in draft or final form, or in process. And,  
16 Consultant acknowledges and agrees that City's obligation to make final payment is  
17 conditioned on Consultant's delivery of the Data to City.

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

26           12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
27 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates  
28 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available



1 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
2 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
3 disclosed pursuant to subpoena or court order.

4 13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

23 15. LAW. This Agreement shall be construed in accordance with the laws  
24 of the State of California, and the venue for any legal actions brought by any party with  
25 respect to this Agreement shall be the County of Los Angeles, State of California for state  
26 actions and the Central District of California for any federal actions. Consultant shall cause  
27 all work performed in connection with construction of the Project to be performed in  
28 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,

1 county or municipal governments or agencies (including, without limitation, all applicable  
2 federal and state labor standards, including the prevailing wage provisions of sections 1770  
3 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire  
4 marshal, health officer, building inspector, or other officer of every governmental agency  
5 now having or hereafter acquiring jurisdiction.

6 16. PREVAILING WAGES.

7 A. Consultant agrees that all public work (as defined in California  
8 Labor Code section 1720) performed pursuant to this Agreement (the "Public  
9 Work"), if any, shall comply with the requirements of California Labor Code sections  
10 1770 *et seq.* City makes no representation or statement that the Project, or any  
11 portion thereof, is or is not a "public work" as defined in California Labor Code  
12 section 1720.

13 B. In all bid specifications, contracts and subcontracts for any  
14 such Public Work, Consultant shall obtain the general prevailing rate of per diem  
15 wages and the general prevailing rate for holiday and overtime work in this locality  
16 for each craft, classification or type of worker needed to perform the Public Work,  
17 and shall include such rates in the bid specifications, contract or subcontract. Such  
18 bid specifications, contract or subcontract must contain the following provision: "It  
19 shall be mandatory for the contractor to pay not less than the said prevailing rate of  
20 wages to all workers employed by the contractor in the execution of this contract.  
21 The contractor expressly agrees to comply with the penalty provisions of California  
22 Labor Code section 1775 and the payroll record keeping requirements of California  
23 Labor Code section 1771."

24 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
25 constitutes the entire understanding between the parties and supersedes all other  
26 agreements, oral or written, with respect to the subject matter in this Agreement.

27 18. INDEMNITY.

28 A. Consultant shall indemnify, protect and hold harmless City, its

1 Boards, Commissions, and their officials, employees and agents (“Indemnified  
2 Parties”), from and against any and all liability, claims, demands, damage, loss,  
3 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
4 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or  
5 in connection with (1) Consultant’s breach or failure to comply with any of its  
6 obligations contained in this Agreement, including any obligations arising from the  
7 Project’s compliance with or failure to comply with applicable laws, including all  
8 applicable federal and state labor requirements including, without limitation, the  
9 requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful  
10 acts, errors, omissions or misrepresentations committed by Consultant, its officers,  
11 employees, agents, subcontractors, or anyone under Consultant’s control, in the  
12 performance of work or services under this Agreement (collectively “Claims” or  
13 individually “Claim”).

14 B. In addition to Consultant’s duty to indemnify, Consultant shall  
15 have a separate and wholly independent duty to defend Indemnified Parties at  
16 Consultant’s expense by legal counsel approved by City, from and against all  
17 Claims, and shall continue this defense until the Claims are resolved, whether by  
18 settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
19 breach, or the like on the part of Consultant shall be required for the duty to defend  
20 to arise. City shall notify Consultant of any Claim, shall tender the defense of the  
21 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,  
22 in the defense.

23 C. If a court of competent jurisdiction determines that a Claim was  
24 caused by the sole negligence or willful misconduct of Indemnified Parties,  
25 Consultant’s costs of defense and indemnity shall be (1) reimbursed in full if the  
26 court determines sole negligence by the Indemnified Parties, or (2) reduced by the  
27 percentage of willful misconduct attributed by the court to the Indemnified Parties.

28 D. The provisions of this Section shall survive the expiration or

1 termination of this Agreement.

2 19. AMBIGUITY. In the event of any conflict or ambiguity between this  
3 Agreement and any Exhibit, the provisions of this Agreement shall govern.

4 20. NONDISCRIMINATION.

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

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

26 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
27 accordance with the provisions of the Ordinance, this Agreement is subject to the  
28 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the

1 Long Beach Municipal Code, as amended from time to time.

2 A. During the performance of this Agreement, the Consultant  
3 certifies and represents that the Consultant will comply with the EBO. The  
4 Consultant agrees to post the following statement in conspicuous places at its place  
5 of business available to employees and applicants for employment:

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

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

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

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

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

25 22. NOTICES. Any notice or approval required by this Agreement shall  
26 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
27 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
28 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy

1 to the City Engineer at the same address. Notice of change of address shall be given in  
2 the same manner as stated for other notices. Notice shall be deemed given on the date  
3 deposited in the mail or on the date personal delivery is made, whichever occurs first.

4 23. COPYRIGHTS AND PATENT RIGHTS.

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

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

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

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

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

1 Agreement shall not constitute a waiver of any other or subsequent breach of this  
2 Agreement.

3           26. CONTINUATION. Termination or expiration of this Agreement shall  
4 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
5 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

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

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

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

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

24 ///  
25 ///  
26 ///  
27 ///  
28 ///

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lona Beach, CA 90802-4664

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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.

JOHN L. HUNTER & ASSOCIATES, INC.,  
a California corporation

August 13, 2019

By [Signature]  
Name Jillian Brickey  
Title Secretary

August 13, 2019

By [Signature]  
Name Cameron McCullough  
Title Vice President

**Tom Modica**  
**Assistant City Manager**

"Consultant"

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER**

CITY OF LONG BEACH, a municipal  
corporation

August 22, 2019

By [Signature]  
City Manager

"City"

This Agreement is approved as to form on Aug. 19, 2019.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy



# EXHIBIT “A”

## Scope of Work



City of Long Beach  
Purchasing Division  
333 West Ocean Boulevard, 7<sup>th</sup> Floor  
Long Beach, CA 90802

### **3. SCOPE OF PROJECT**

The following scope of services is included as the minimum services requested from the Awarded Consultant(s). Consultants are asked to provide their experience in providing these types of services in their Statement of Qualifications (SOQ).

#### **3.1 Program Management**

- 3.1.1 Provide regular program updates to the City on the Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) program in general and on the specific services provided. Attend weekly meetings with the City, as well as monthly contact via phone calls and emails.
- 3.1.2 Serve as a representative of the City's MS4 NPDES program, which may include interactions with regulators, other municipalities, watershed management groups, Non-Governmental Organizations (NGOs), project applicants, facility operators, and the public. This also includes representing the City at relevant NPDES related area-wide meetings such as the Los Angeles Regional Permit Group and MS4 Permit workshops held by the Regional Water Quality Board and preparing meeting update reports.
- 3.1.3 Regularly maintain, update, and develop the forms, procedures, and other documents that constitute the City's written MS4 NPDES program.
- 3.1.4 Provide as-needed general assistance with the implementation of NPDES program.
- 3.1.5 Assist with as-needed fee/revenue collection and fee/revenue studies.
- 3.1.6 Assist with water quality compliance monitoring and sampling services as-needed.
- 3.1.7 Assure quality on services provided, for example, by reviewing prepared deliverables.
- 3.1.8 Provide grant writing assistance/preparation.
- 3.1.9 Provide grant monitoring assistance as needed.

#### **3.2 Monitoring and Reporting Program**

- 3.2.1 Prepare and submit the City's Individual MS4 NPDES Annual Report.
- 3.2.2 Assist in the preparation of the Watershed MS4 NPDES Annual Report. This includes incorporation of Low Impact Development (LID) Best Management Practice (BMP) data and review of water quality monitoring results.



City of Long Beach  
Purchasing Division  
333 West Ocean Boulevard, 7<sup>th</sup> Floor  
Long Beach, CA 90802

3.2.3 For all programs listed under this scope of work, use existing accepted forms or develop forms that conform with the MS4 NPDES Permit to log all BMP/project/facility inventory, inspection, and enforcement activities.

3.2.4 Update and maintain an online Geographic Information System (GIS) database(s) of program records.

### 3.3 Watershed Management Program (WMP) Assistance

3.3.1 As needed, represent the City at Dominguez Channel, Los Cerritos Channel (LCC), Lower Los Angeles River (LLAR), Lower San Gabriel River (LSGR) Watershed Management Group (WMG) and Nearshore Watershed meetings and related meetings involving the WMGs, and prepare meeting update reports.

3.3.2 Prepare WMP/Coordinated Integrated Monitoring Program (CIMP) compliance progress reports and updates.

3.3.3 Develop and update as-needed the City's inventory and prioritization of candidate stormwater retrofit projects.

3.3.4 Assist with as-needed project selection, development, and implementation.

3.3.5 Assist with the WMP Adaptive Management process and Permit renewal.

3.3.6 Assist with as-needed project grant applications.

3.3.7 Assist with other as-needed WMP-related tasks.

### 3.4 Public Education Program

3.4.1 Assist in City events to promote public involvement in pollution prevention.

3.4.2 Prepare articles for City media outlet at the City's request.

3.4.3 Update educational material on an as-needed basis. Provide educational materials in multiple languages (English, Spanish, Khmer, and Tagalog) at the request of the City.

3.4.4 Hand deliver educational materials to "points of purchase" (as defined in the MS4 NPDES Permit) for display.

3.4.5 Update the City's Stormwater website on an as-needed basis.

3.4.6 Provide educational materials to school children and the public.



City of Long Beach  
Purchasing Division  
333 West Ocean Boulevard, 7<sup>th</sup> Floor  
Long Beach, CA 90802

### 3.5 Planning and Land Development Program

- 3.5.1 Provide LID Plan project reviews and Stormwater Pollution Prevention Plan (SWPPP) reviews, based on MS4 NPDES Permit Part VII.J criteria for Capital Improvement Projects (CIP).
- 3.5.2 Conduct LID BMP verification and maintenance inspections on an as-needed basis and conduct follow-up activities at non-compliant projects. This would include notifying existing LID Plan sites of maintenance requirements.
- 3.5.3 Provide guidance to the City and design consultants regarding implementation of the City's Green Streets Policy.
- 3.5.4 Gather and track all LID BMP data required by the MS4 Permit and MS4 NPDES Annual Report.
- 3.5.5 Provide annual training to designated City staff in 1) LID Plan Review and BMP verification and maintenance inspections, and 2) Construction BMP standards and SWPPP reviews.

### 3.6 Construction Program

- 3.6.1 Provide Construction Stormwater Pollution Prevention Plan (SWPPP) reviews by a Qualified SWPPP Developer (QSD).
- 3.6.2 Track in a regularly updated inventory and inspect for MS4 NPDES compliance active sites under the Construction General Permit (CGP). Assume 12 sites inspected monthly. Sites less than an acre in size will be tracked and inspected at City's request.
- 3.6.3 Conduct follow-up inspections at non-compliant sites and prepare enforcement actions as necessary on as-needed basis.
- 3.6.4 Inspection staff must have a minimum certification of a Qualified SWPPP Practitioner (QSP).
- 3.6.5 Provide annual training to designated City staff in Construction BMP standards and SWPPP requirements.
- 3.6.6 Provide plan check services, at an hourly rate, for as-needed drainage plan reviews.
- 3.6.7 Management of Stormwater Multiple Application and Report Tracking System (SMARTS) database for City projects.



City of Long Beach  
Purchasing Division  
333 West Ocean Boulevard, 7<sup>th</sup> Floor  
Long Beach, CA 90802

### 3.7 Public Agency Activities Program

- 3.7.1 Update City's inventory of public facilities as-needed.
- 3.7.2 Update BMP fact sheets as-needed for activities listed in Table 17 of the MS4 NPDES Permit.
- 3.7.3 Update language to require contractors to implement BMPs from Permit Part VII.L.5.iii.
- 3.7.4 Implement and update Integrated Pest Management procedures as-needed.
- 3.7.5 Provide annual training to designated City staff in applicable elements of the Public Agency Activities Program.

### 3.8 Industrial/Commercial Facilities Control Program

- 3.8.1 Track and regularly update an inventory of active industrial/commercial "critical source" facilities (as defined by the MS4 NPDES Permit), including an annual review of the City's business license database. This work includes determining accurate Standard Industrial Classification (SIC) codes for each facility. Assume approximately 2,000 industrial/commercial facilities.
- 3.8.2 Educate industrial/commercial facility operators in MS4 NPDES Permit compliance as-needed. This includes sending informative inspection program notification letters prior to beginning a round of inspections.
- 3.8.3 Inspect for MS4 NPDES compliance of the inventoried industrial/commercial critical source facilities. For industrial facilities under the Industrial General Permit (IGP) with No Exposure Certification (NEC), ensure NEC applies at the time of the inspection.
- 3.8.4 Conduct follow-up inspections at non-compliant sites and prepare enforcement actions as necessary. Maintain a list of potential IGP non-filers and include the list with the City's MS4 NPDES Annual Report.

### 3.9 Illicit Connections/Illicit Discharges (IC/ID) Program

- 3.9.1 Investigate illicit discharges and complaints on an as-needed basis. This includes preparing investigation reports based on findings, conducting follow-up visits to verify elimination of illicit discharges, and preparing enforcement notices following City ordinances.



City of Long Beach  
Purchasing Division  
333 West Ocean Boulevard, 7<sup>th</sup> Floor  
Long Beach, CA 90802

### 3.5 Planning and Land Development Program

- 3.5.1 Provide LID Plan project reviews and Stormwater Pollution Prevention Plan (SWPPP) reviews, based on MS4 NPDES Permit Part VII.J criteria for Capital Improvement Projects (CIP).
- 3.5.2 Conduct LID BMP verification and maintenance inspections on an as-needed basis and conduct follow-up activities at non-compliant projects. This would include notifying existing LID Plan sites of maintenance requirements.
- 3.5.3 Provide guidance to the City and design consultants regarding implementation of the City's Green Streets Policy.
- 3.5.4 Gather and track all LID BMP data required by the MS4 Permit and MS4 NPDES Annual Report.
- 3.5.5 Provide annual training to designated City staff in 1) LID Plan Review and BMP verification and maintenance inspections, and 2) Construction BMP standards and SWPPP reviews.

### 3.6 Construction Program

- 3.6.1 Provide Construction Stormwater Pollution Prevention Plan (SWPPP) reviews by a Qualified SWPPP Developer (QSD).
- 3.6.2 Track in a regularly updated inventory and inspect for MS4 NPDES compliance active sites under the Construction General Permit (CGP). Assume 12 sites inspected monthly. Sites less than an acre in size will be tracked and inspected at City's request.
- 3.6.3 Conduct follow-up inspections at non-compliant sites and prepare enforcement actions as necessary on as-needed basis.
- 3.6.4 Inspection staff must have a minimum certification of a Qualified SWPPP Practitioner (QSP).
- 3.6.5 Provide annual training to designated City staff in Construction BMP standards and SWPPP requirements.
- 3.6.6 Provide plan check services, at an hourly rate, for as-needed drainage plan reviews.
- 3.6.7 Management of Stormwater Multiple Application and Report Tracking System (SMARTS) database for City projects.



City of Long Beach  
Purchasing Division  
333 West Ocean Boulevard, 7<sup>th</sup> Floor  
Long Beach, CA 90802

3.9.2 Implement and update the City's MS4 NPDES Spill Response Plan as-needed.

3.9.3 Provide annual training to designated City staff in (IC/ID) detection, elimination, clean-up, reporting, and documentation.

### 3.10 Total Maximum Daily Load (TMDL) Programs Assistance

3.10.1 Assist with TMDL planning, implementation, and reporting, and other TMDL-related tasks as-needed.

3.10.2 Assist the City with the implementation of the Statewide Trash Amendments. This includes generating maps as required by the Regional Quality Control Board, assisting in the selection and placement of trash control measures, and if required, compliance monitoring.

# EXHIBIT “B”

Rates or Charges



## I. JLHA Cost Proposal/Schedule of Fixed Hourly Rate

---

### A. Standard Rate Schedule

Principal	\$185 / hour
Director	\$165 / hour
Staff Engineer	\$165 / hour
Project Manager	\$155 / hour
Assistant Project Manager	\$145 / hour
Project Engineer	\$145 / hour
Compliance Specialist II	\$115 / hour
Project Analyst II	\$115 / hour
Industrial/commercial facility inspection	\$125 / unit
Compliance Specialist I	\$95 / hour
Project Analyst I	\$95 / hour
Administrative Assistant, Laborer (OSHA 40hr certified)	\$65 / hour
State Certified Laboratory Analysis	Cost + 5%
Legal Consultation, Court Appearances/Document review, etc.	\$250 / hour
Subcontracted equipment	Cost + 5%

Printing fees will be incurred if third party professional printing is requested by the City.

**KINNETIC LABORATORIES, INC. DIRECT COSTS AND TRAVEL  
SCHEDULE**

**2018-2019**

<b>ITEM</b>	<b>COST</b>
<b>SHIPPING/TRAVEL</b>	
Postage/Shipping	Actual
Vans/Pick-Up Trucks	\$110/Day
Service Trucks w/ Traffic Safety Equipment & Tools	\$145/Day
Vehicle Miles	Government Rate
Lodging	Actual
Per Diem	Government Rate
Parking/Tolls	Actual
Airfare	Actual
Rental Vehicles	Actual
<b>STORMWATER MONITORING</b>	
Basic Station (Enclosure, Data Logger, Sampler, Flow Meter, Modem, Solar Panel, Rain Gauge)	\$1,300/Month
Security Enclosure	\$220/Month
Auto Sampler	\$375/Month (\$50/Day)
Depth Sensor	\$150/Month
Velocity/Flow Sensor	\$450/Month
Rain Gauge	\$50/Month
Cellular Telephone Link	\$100/Month
Solar Panel	\$35/Month
Datalogger/Controller	\$220/Month
Confined Space Entry Equipment	\$150/Day
<b>FIELD METERS</b>	
Anemometer	\$25/Day
Conductivity and Temperature	\$35/Day
Dissolved Oxygen	\$35/Day
Nephelometer	\$75/Day
pH	\$35/Day
Multi-parameter SONDE	\$110/Day
<b>WATER SAMPLING</b>	
Diaphragm Pump, Teflon	\$25/Day
Go Flo Bottle	\$25/Day
Niskin Bottle w/ Messenger	\$25/Day
Peristaltic Pump	\$50/Day
Valskon Sampler	\$60/Day
VIPS, Trace Metals Sampler	\$250/Day
<b>POSITIONING</b>	
GPS, Differential w/ Beacon Receiver	\$55/Day
Transit Surveyor	\$50/Day

**KINNETIC LABORATORIES, INC. DIRECT COSTS AND TRAVEL  
SCHEDULE**

**2018-2019**

<b>ITEM</b>	<b>COST</b>
<b>SHIPPING/TRAVEL</b>	
Postage/Shipping	Actual
Vans/Pick-Up Trucks	\$110/Day
Service Trucks w/ Traffic Safety Equipment & Tools	\$145/Day
Vehicle Miles	Government Rate
Lodging	Actual
Per Diem	Government Rate
Parking/Tolls	Actual
Airfare	Actual
Rental Vehicles	Actual
<b>STORMWATER MONITORING</b>	
Basic Station (Enclosure, Data Logger, Sampler, Flow Meter, Modem, Solar Panel, Rain Gauge)	\$1,300/Month
Security Enclosure	\$220/Month
Auto Sampler	\$375/Month (\$50/Day)
Depth Sensor	\$150/Month
Velocity/Flow Sensor	\$450/Month
Rain Gauge	\$50/Month
Cellular Telephone Link	\$100/Month
Solar Panel	\$35/Month
Datalogger/Controller	\$220/Month
Confined Space Entry Equipment	\$150/Day
<b>FIELD METERS</b>	
Anemometer	\$25/Day
Conductivity and Temperature	\$35/Day
Dissolved Oxygen	\$35/Day
Nephelometer	\$75/Day
pH	\$35/Day
Multi-parameter SONDE	\$110/Day
<b>WATER SAMPLING</b>	
Diaphragm Pump, Teflon	\$25/Day
Go Flo Bottle	\$25/Day
Niskin Bottle w/ Messenger	\$25/Day
Peristaltic Pump	\$50/Day
Valskon Sampler	\$60/Day
VIPS, Trace Metals Sampler	\$250/Day
<b>POSITIONING</b>	
GPS, Differential w/ Beacon Receiver	\$55/Day
Transit Surveyor	\$50/Day

**KINNETIC LABORATORIES, INC. DIRECT COSTS AND TRAVEL  
SCHEDULE (continued)**

<b>ITEM</b>	<b>COST</b>
<b>BOATS</b>	
34' Research Vessel: D.W. Hood	\$1,450/Day
30' Research Vessel: Prophecy	\$1,300/Day
Research Vessel: North Forty	\$1,250/Day
20 ft x 12ft Pontoon Barge	\$1,100/Day
30 ft x 16 ft Pontoon Barge	\$1,400/Day
17' Boston Whaler	\$250/Day
14' Jon Boat	\$100/Day
15 hp Outboard Engine	\$75/Day
A-Frame w/ Puller Motor, for Whaler & Zodiac	\$50/Day
<b>DIVE OPERATIONS</b>	
Communication Gear, Diver to Diver or Diver to Ship	\$50/Day
SCUBA	\$95/Pers./Day
<b>SEIMENT SAMPLING</b>	
Gravity Core, 3-1/2" X 8' w/ Butyrate Liners	\$125/Day
Gravity Core, 1-3/4" X 2' w/ Butyrate Liners	\$75/Day
Hand Auger, Stainless-Steel	\$50/Day
Vibracore, 4" diameter up to 30' length w/ Generator	\$750/Day
Bucket Dredge, Stainless-Steel, 40-Gal. Capacity	\$200/Day
Gray/O'Hara Box Core, Halar Coated	\$125/Day
Smith/McIntyre, Halar Coated	\$100/Day
Smith/McIntyre, Galvanized Steel	\$75/Day
Van Veen, 0.1 m2, Stainless-Steel w/ Cage	\$75/Day
Ponar Grab, 0.06 m2, Stainless-Steel	\$50/Day
Sediment Mixer, Hobart (30-Gal. Capacity)	\$150/Day
<b>BENTHIC AND BIOACCUMULATION</b>	
Benthic Sampling Sieves, Table, Supplies	\$50/Day
Crab Trap, Plastic	\$25/Day
Long-Line Fishing Gear	\$25/Day
Otter Trawl, 25'	\$100/Day
Otter Trawl, 16'	\$90/Day
<b>OCEANOGRAPHY</b>	
CTD w/ D.O., pH & Transmissivity	\$400/Day
Current Meter, Doppler	\$2,000/Month
Current Meter, Acoustic	\$800/Month
Drogue	\$35/Day
Fluorometer	\$150/Day
Fluorometer w/ Data Logger	\$175/Day
Underwater Beacon	\$150/ Month
Underwater Beacon Locator	\$150/Day

**KINNETIC LABORATORIES, INC. DIRECT COSTS AND TRAVEL  
SCHEDULE (continued)**

<b>ITEM</b>	<b>COST</b>
<b>BOATS</b>	
34' Research Vessel: D.W. Hood	\$1,450/Day
30' Research Vessel: Prophecy	\$1,300/Day
Research Vessel: North Forty	\$1,250/Day
20 ft x 12ft Pontoon Barge	\$1,100/Day
30 ft x 16 ft Pontoon Barge	\$1,400/Day
17' Boston Whaler	\$250/Day
14' Jon Boat	\$100/Day
15 hp Outboard Engine	\$75/Day
A-Frame w/ Puller Motor, for Whaler & Zodiac	\$50/Day
<b>DIVE OPERATIONS</b>	
Communication Gear, Diver to Diver or Diver to Ship	\$50/Day
SCUBA	\$95/Pers./Day
<b>SEIMENT SAMPLING</b>	
Gravity Core, 3-1/2" X 8' w/ Butyrate Liners	\$125/Day
Gravity Core, 1-3/4" X 2' w/ Butyrate Liners	\$75/Day
Hand Auger, Stainless-Steel	\$50/Day
Vibracore, 4" diameter up to 30' length w/ Generator	\$750/Day
Bucket Dredge, Stainless-Steel, 40-Gal. Capacity	\$200/Day
Gray/O'Hara Box Core, Halar Coated	\$125/Day
Smith/McIntyre, Halar Coated	\$100/Day
Smith/McIntyre, Galvanized Steel	\$75/Day
Van Veen, 0.1 m2, Stainless-Steel w/ Cage	\$75/Day
Ponar Grab, 0.06 m2, Stainless-Steel	\$50/Day
Sediment Mixer, Hobart (30-Gal. Capacity)	\$150/Day
<b>BENTHIC AND BIOACCUMULATION</b>	
Benthic Sampling Sieves, Table, Supplies	\$50/Day
Crab Trap, Plastic	\$25/Day
Long-Line Fishing Gear	\$25/Day
Otter Trawl, 25'	\$100/Day
Otter Trawl, 16'	\$90/Day
<b>OCEANOGRAPHY</b>	
CTD w/ D.O., pH & Transmissivity	\$400/Day
Current Meter, Doppler	\$2,000/Month
Current Meter, Acoustic	\$800/Month
Drogue	\$35/Day
Fluorometer	\$150/Day
Fluorometer w/ Data Logger	\$175/Day
Underwater Beacon	\$150/ Month
Underwater Beacon Locator	\$150/Day



KINNETIC

LABORATORIES

INCORPORATED

P.O. BOX 1040  
LABORATORY: 307 WASHINGTON STREET  
SANTA CRUZ, CALIFORNIA 95061  
(831) 457-3950  
FAX (831) 428-0405

## KINNETIC LABORATORIES, INC.

### 2018-2019 RATE SCHEDULE

<u>PROFESSIONAL CATEGORY</u>	<u>HOURLY RATE</u>
SCIENTIST V / PRINCIPAL / LEAD SCIENTIST	\$ 174
SCIENTIST IV / PROJECT MANAGER / SENIOR SCIENTIST II	\$ 148
SCIENTIST III / SENIOR SCIENTIST I	\$ 132
SCIENTIST II / STAFF SCIENTIST	\$ 110
SCIENTIST I / JUNIOR SCIENTIST	\$ 94
TECHNICIAN	\$ 80

# EXHIBIT “C”

City’s Representative:

Melissa You, Stormwater Officer

(562) 570-5524

Melissa.You@longbeach.gov

# EXHIBIT “D”

Materials/Information Furnished: None



# EXHIBIT “E”

Consultant’s Key Employee:

Jillian Brickey, Project Manager

(562) 802-7880, Ext. 226

[jbrickey@jiha.net](mailto:jbrickey@jiha.net)