

1 AGREEMENT

2 **30616**

3 THIS AGREEMENT is made and entered, in duplicate, as of December 27,  
4 2007 for reference purposes only, pursuant to a minute order adopted by the City Council  
5 of the City of Long Beach at its meeting on November 20, 2007, by and between  
6 Transtech Engineers, a California corporation/limited liability company etc, with a place of  
7 business at 624 Brea Canyon Road, Walnut, CA 91789 ("Consultant"), and the CITY OF  
8 LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be  
10 performed in connection with as-needed grant writing services ("Project"); and

11 WHEREAS, City has selected Consultant in accordance with City's  
12 administrative procedures and City has determined that Consultant and its employees  
13 are qualified, licensed, if so required, and experienced in performing these specialized  
14 services; and

15 WHEREAS, City desires to have Consultant perform these specialized  
16 services, and Consultant is willing and able to do so on the terms and conditions in this  
17 Agreement;

18 NOW, THEREFORE, in consideration of the mutual terms, covenants, and  
19 conditions in this Agreement, the parties agree as follows:

20 1. SCOPE OF WORK OR SERVICES.

21 A. Consultant shall furnish specialized services more particularly  
22 described in Exhibit "A", attached to this Agreement and incorporated by this reference,  
23 in accordance with the standards of the profession, and City shall pay for these services  
24 in the manner described below, not to exceed \$150,000, at the rates or charges shown in  
25 Exhibit "B".

26 B. Consultant may select the time and place of performance for these  
27 services; provided, however, that access to City documents, records and the like, if  
28 needed by Consultant, shall be available only during City's normal business hours and

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

1 provided that milestones for performance, if any, are met.

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

15 D. Consultant represents that Consultant has obtained all necessary  
16 information on conditions and circumstances that may affect its performance and has  
17 conducted site visits, if necessary.

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

21 2. TERM. The term of this Agreement shall commence at midnight on  
22 February 1, 2008, and shall terminate at 11:59 p.m. on January 31, 2011, unless sooner  
23 terminated as provided in this Agreement, or unless the services or the Project is  
24 completed sooner.

25 3. COORDINATION AND ORGANIZATION.

26 A. Consultant shall coordinate its performance with City's representative  
27 as assigned per project. Consultant shall advise and inform City's Project Manager of the  
28 work in progress on the Project in sufficient detail so as to assist City's Project Manager

1 in making presentations and in holding meetings on the Project. City shall furnish to  
2 Consultant information or materials required to complete projects assigned to Consultant.

3 B. The parties acknowledge that a substantial inducement to City for  
4 entering this Agreement was and is the reputation and skill of Consultant's key employee  
5 Hal Suetsugu. City shall have the right to approve any person proposed by Consultant to  
6 replace that key employee.

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

20 5. INSURANCE.

21 A. As a condition precedent to the effectiveness of this Agreement,  
22 Consultant shall procure and maintain, at Consultant's expense for the duration of this  
23 Agreement, from insurance companies that are admitted to write insurance in California  
24 and have ratings of or equivalent to A:V by A.M. Best Company or from authorized non-  
25 admitted insurance companies subject to Section 1763 of the California Insurance Code  
26 and that have ratings of or equivalent to A:VIII by A.M. Best Company, the following  
27 insurance:  
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(a) Commercial general liability insurance (equivalent in scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This coverage shall include but not be limited to broad form contractual liability, cross liability, independent contractors liability, and products and completed operations liability. City, its boards and commissions, and their officials, employees and agents shall be named as additional insureds by endorsement (on City's endorsement form or on an endorsement equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and this insurance shall contain no special limitations on the scope of protection given to City, its boards and commissions, and their officials, employees and agents. 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.

(b) 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.

(c) 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.

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

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

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

17 F. Prior to the start of performance, Consultant shall deliver to City  
18 certificates of insurance and the endorsements for approval as to sufficiency and form. In  
19 addition, Consultant shall, within thirty (30) days prior to expiration of the insurance,  
20 furnish to City certificates of insurance and endorsements evidencing renewal of the  
21 insurance. City reserves the right to require complete certified copies of all policies of  
22 Consultant and Consultant's subconsultants and contractors, at any time. Consultant  
23 shall make available to City's Risk Manager or designee all books, records and other  
24 information relating to this insurance, during normal business hours.

25 G. Any modification or waiver of these insurance requirements shall only  
26 be made with the approval of City's Risk Manager or designee. Not more frequently than  
27 once a year, City's Risk Manager or designee may require that Consultant, Consultant's  
28 subconsultants and contractors change the amount, scope or types of coverages

1 required in this Section if, in his or her sole opinion, the amount, scope or types of  
2 coverages are not adequate.

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

6 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
7 contemplates the personal services of Consultant and Consultant's employees, and the  
8 parties acknowledge that a substantial inducement to City for entering this Agreement  
9 was and is the professional reputation and competence of Consultant and Consultant's  
10 employees. Consultant shall not assign its rights or delegate its duties under this  
11 Agreement, or any interest in this Agreement, or any portion of it, without the prior  
12 approval of City, except that Consultant may with the prior approval of the City Manager  
13 of City, assign any moneys due or to become due Consultant under this Agreement. Any  
14 attempted assignment or delegation shall be void, and any assignee or delegate shall  
15 acquire no right or interest by reason of an attempted assignment or delegation.  
16 Furthermore, Consultant shall not subcontract any portion of its performance without the  
17 prior approval of the City Manager or designee, or substitute an approved subconsultant  
18 or contractor without approval prior to the substitution. Nothing stated in this Section  
19 shall prevent Consultant from employing as many employees as Consultant deems  
20 necessary for performance of this Agreement.

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

27 8. MATERIALS. Consultant shall furnish all labor and supervision,  
28 supplies, materials, tools, machinery, equipment, appliances, transportation and services

1 necessary to or used in the performance of Consultant's obligations under this  
2 Agreement, except as stated in Exhibit "C".

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

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

24           11. CONFIDENTIALITY. Consultant shall keep all Data confidential and  
25 shall not disclose the Data or use the Data directly or indirectly, other than in the course  
26 of performing its services, during the term of this Agreement and for five (5) years  
27 following expiration or termination of this Agreement. In addition, Consultant shall keep  
28 confidential all information, whether written, oral or visual, obtained by any means

1 whatsoever in the course of performing its services for the same period of time.  
2 Consultant shall not disclose any or all of the Data to any third party, or use it for  
3 Consultant's own benefit or the benefit of others except for the purpose of this  
4 Agreement.

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

11 13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

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



1           17.    INDEMNITY. Consultant shall, with respect to services performed in  
2 connection with this Agreement, indemnify and hold harmless City, its Boards,  
3 Commissions, and their officials, employees and agents (collectively in this Section,  
4 "City") from and against any and all liability, claims, allegations, demands, damage, loss,  
5 causes of action, proceedings, penalties, costs and expenses (including attorney's fees,  
6 court costs, and expert and witness fees) (collectively "Claims" or individually "Claim")  
7 arising, directly or indirectly, in whole or in part, out of any negligent act or omission of  
8 Consultant, its officers, employees, agents, sub-consultants or anyone under  
9 Consultant's control (collectively "Indemnitor"), breach of this Agreement by Indemnitor,  
10 misrepresentation or willful misconduct by Indemnitor, and Claims by any employee of  
11 Indemnitor relating in any way to workers' compensation. Independent of the duty to  
12 indemnify and as a free-standing duty on the part of Consultant, Consultant shall defend  
13 City and shall continue this defense until the Claim is resolved, whether by settlement,  
14 judgment or otherwise. No finding or judgment of negligence, fault, breach or the like on  
15 the part of Indemnitor shall be required for the duty to defend to arise. Consultant shall  
16 notify City of any Claim within ten (10) days. Likewise, City shall notify Consultant of any  
17 Claim, shall tender the defense of the Claim to Consultant, and shall assist Consultant at  
18 Consultant's sole expense, as may be reasonably requested, in the defense.

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

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

24           20.    NONDISCRIMINATION.

25           A. In connection with performance of this Agreement and subject to  
26 applicable rules and regulations, Consultant shall not discriminate against any employee  
27 or applicant for employment because of race, religion, national origin, color, age, sex,  
28 sexual orientation, AIDS, HIV status, handicap or disability. Consultant shall ensure that

1 applicants are employed, and that employees are treated during their employment,  
2 without regard to these bases. These actions shall include, but not be limited to, the  
3 following: employment, upgrading, demotion or transfer; recruitment or recruitment  
4 advertising; layoff or termination; rates of pay or other forms of compensation; and  
5 selection for training, including apprenticeship.

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

17 21. NOTICES. Any notice or approval required by this Agreement shall  
18 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
19 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
20 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a  
21 copy to the City Engineer at the same address. Notice of change of address shall be  
22 given in the same manner as stated for other notices. Notice shall be deemed given on  
23 the date deposited in the mail or on the date personal delivery is made, whichever occurs  
24 first.

25 22. COPYRIGHTS AND PATENT RIGHTS.

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

28 B. City reserves the exclusive right to seek and obtain a patent or

1 copyright registration on any Data or other result arising from Consultant's performance  
2 of this Agreement. By executing this Agreement, Consultant assigns any ownership  
3 interest Consultant may have in the Data to City.

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

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

18 24. WAIVER. The acceptance of any services or the payment of any  
19 money by City shall not operate as a waiver of any provision of this Agreement or of any  
20 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
21 Agreement shall not constitute a waiver of any other or subsequent breach of this  
22 Agreement.

23 25. CONTINUATION. Termination or expiration of this Agreement shall  
24 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
25 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

26 26. TAX REPORTING. As required by federal and state law, City is  
27 obligated to and will report the payment of compensation to Consultant on Form 1099-  
28 Misc. Consultant shall be solely responsible for payment of all federal and state taxes

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1 resulting from payments under this Agreement. Consultant's Employer Identification  
2 Number is [REDACTED] If Consultant has a Social Security Number rather than an  
3 Employer Identification Number, then Consultant shall submit that Social Security  
4 Number in writing to City's Accounts Payable, Department of Financial Management.  
5 Consultant acknowledges and agrees that City has no obligation to pay Consultant until  
6 Consultant provides one of these numbers.

7 27. ADVERTISING. Consultant shall not use the name of City, its  
8 officials or employees in any advertising or solicitation for business or as a reference,  
9 without the prior approval of the City Manager or designee.

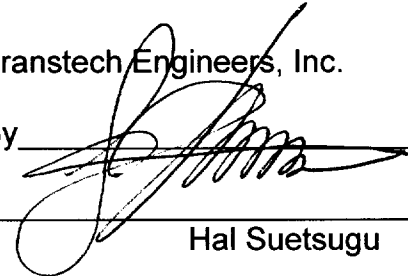
10 28. AUDIT. City shall have the right at all reasonable times during the  
11 term of this Agreement and for a period of five (5) years after termination or expiration of  
12 this Agreement to examine, audit, inspect, review, extract information from and copy all  
13 books, records, accounts and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

14 29. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
15 designed to or entered for the purpose of creating any benefit or right for any person or  
16 entity of any kind that is not a party to this Agreement.

17 ///

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

20  
21 January 22, 2008

Transtech Engineers, Inc.  
By   
\_\_\_\_\_  
Hal Suetsugu

24 \_\_\_\_\_, 2008

Vice President, Grants Management & Funding  
By \_\_\_\_\_

26 \_\_\_\_\_  
27 \_\_\_\_\_

"Consultant"

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

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CITY OF LONG BEACH, a municipal corporation

February 12, 2008

By *[Signature]* ASSISTANT  
City Manager

"City"

This Agreement is approved as to form on January 28, 2008.

ROBERT E. SHANNON, City Attorney

By *[Signature]*  
Deputy

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

# SCOPE OF WORK

## PROVIDING AS-NEEDED GRANT WRITING SERVICES FOR PARKS, RECREATION AND MARINE/PUBLIC WORKS PROJECTS IN THE CITY OF LONG BEACH

### A. PROJECT DESCRIPTION AND OVERVIEW

The City of Long Beach, acting through its Department of Parks, Recreation and Marine, desires to engage the services of one or more grant writers to provide grant writing services on an "as-needed" basis for Parks, Recreation and Marine/Public Works improvement projects.

### SCOPE OF SERVICES

This RFP is intended to procure grant writing services including but not limited to the following:

1. Writing applications for grants to fund park development projects from public and private agencies such as California State Parks, the County of Los Angeles, the Los Angeles County Metropolitan Transportation Authority (MTA), the U.S Environmental Protection Agency, the Long Beach Naval Heritage Foundation, and the Ford Foundation
2. Tracking and reporting on grant funded projects.
3. Assisting in grant audits.

Grant writing services may be required for the following types of projects:

1. Park design
2. Streetscape & median design
3. Renovation of existing parks & facilities
4. Water conservation systems (planting & irrigation)
5. Park or facility structures (such as community centers & restrooms)
6. Trails and river parkway design
7. Habitat restoration design
8. Water features, water play areas and pool facilities
9. Universally accessible playgrounds

### DEFINITIONS

OWNER – City of Long Beach.

CITY – The City of Long Beach or designated representative.

CITY PROJECT MANAGER (CPM) – The City's designated manager or representative overseeing the project.

**TRANSTECH ENGINEERS, INC. STANDARD HOURLY RATES**  
**Grants Management and Funds Administration**  
Effective January 1, 2008 through December 31, 2008

<b><i>Classification</i></b>	<b><i>Hourly Rate</i></b>
Principal Funds Manager	\$175
Senior Funds Manager	\$135
Senior Grants Manager	\$125
Research Planner	\$90
Engineering Technician	\$60
Administrative/Word Processing	\$40
Reimbursable direct expenses are billed at cost plus 10% for administration fee.	

**Exhibit "B"**

City representative coordinator:

Heather Martin  
Analyst, Planning and Development Bureau  
Parks, Recreation and Marine  
2760 Studebaker Road  
Long Beach, CA 90815  
562/570-3155



**Exhibit "C"**

No materials to be provided to contractor.