

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

AGREEMENT

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THIS AGREEMENT is made and entered, in duplicate, as of September 5, 2018 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on September 4, 2018, by and between ENVIRONMENTAL SCIENCE ASSOCIATES, a California corporation ("Consultant"), with a place of business at 626 Wilshire Boulevard, Suite 1100, Los Angeles, California 90017, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, the City requires specialized services requiring unique skills to be performed in connection with on-call historic preservation consultant services ("Project"); and

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

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

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

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed Fifty Thousand Dollars (\$50,000), at the rates or charges shown in Exhibit "B".

B. The City's obligation to pay the sum stated above for any one fiscal year shall be contingent upon the City Council of the City appropriating the

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

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

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

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

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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 the City.

4 2. TERM. The term of this Agreement shall commence at midnight on  
5 October 1, 2018 and shall terminate at 11:59 p.m. on September 30, 2020, unless sooner  
6 terminated as provided in this Agreement, or unless the services or the Project is  
7 completed sooner. The term may be extended for two (2) additional one-year periods, at  
8 the discretion of the City Manager.

9 3. COORDINATION AND ORGANIZATION.

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

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

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

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

7 5. INSURANCE.

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

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

1           their officials, employees and agents.

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

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

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

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

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

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

1           uninterrupted, continuing coverage for a period of not less than three (3) years,  
2           commencing on the date this Agreement expires or is terminated.

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

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

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

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

25                   6.       ASSIGNMENT AND SUBCONTRACTING.       This Agreement  
26          contemplates the personal services of Consultant and Consultant's employees, and the  
27          parties acknowledge that a substantial inducement to City for entering this Agreement was  
28          and is the professional reputation and competence of Consultant and Consultant's

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

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

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

26 9. OWNERSHIP OF DATA. All materials, information and data  
27 prepared, developed, or assembled by Consultant or furnished to Consultant in connection  
28 with this Agreement, including but not limited to documents, estimates, calculations,

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

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

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

27           12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
28 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates



1 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
2 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
3 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
4 disclosed pursuant to subpoena or court order.

5 13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

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

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

4           17.    INDEMNITY.

5           A.     Consultant shall indemnify, protect and hold harmless City, its  
6 Boards, Commissions, and their officials, employees and agents ("Indemnified  
7 Parties"), from and against any and all liability, claims, demands, damage, loss,  
8 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
9 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or  
10 in connection with (1) Consultant's breach or failure to comply with any of its  
11 obligations contained in this Agreement, or (2) negligent or willful acts, errors,  
12 omissions or misrepresentations committed by Consultant, its officers, employees,  
13 agents, subcontractors, or anyone under Consultant's control, in the performance  
14 of work or services under this Agreement (collectively "Claims" or individually  
15 "Claim").

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

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

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percentage of willful misconduct attributed by the court to the Indemnified Parties.

D. To the extent this Agreement is a professional service agreement for work or services performed by a design professional (architect, landscape architect, professional engineer or professional land surveyor), the provisions of this Section regarding Consultant's duty to defend and indemnify shall be limited as provided in California Civil Code Section 2782.8, and shall apply only to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

E. The provisions of this Section shall survive the expiration or termination of this Agreement.

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

19. NONDISCRIMINATION.

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

B. It is the policy of City to encourage the participation of Disadvantaged, Minority and Women-owned Business Enterprises in City's procurement process, and Consultant agrees to use its best efforts to carry out this policy in its use of subconsultants and contractors to the fullest extent consistent with the efficient performance of this Agreement. Consultant may rely on written representations by subconsultants and contractors regarding their status.

1 Consultant shall report to City in May and in December or, in the case of short-term  
2 agreements, prior to invoicing for final payment, the names of all subconsultants  
3 and contractors hired by Consultant for this Project and information on whether or  
4 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as  
5 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

6 20. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
7 accordance with the provisions of the Ordinance, this Agreement is subject to the  
8 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
9 Long Beach Municipal Code, as amended from time to time.

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

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

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

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

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

28 E. If the City determines that the Consultant has set up or used its

1 contracting entity for the purpose of evading the intent of the EBO, the City may  
2 terminate the Agreement on behalf of the City. Violation of this provision may be  
3 used as evidence against the Consultant in actions taken pursuant to the provisions  
4 of Long Beach Municipal Code section 2.93 et seq., Contractor Responsibility.

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

12 22. COPYRIGHTS AND PATENT RIGHTS.

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

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

19 C. Consultant warrants that the Data does not violate or infringe  
20 any patent, copyright, trade secret or other proprietary right of any other party.  
21 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials  
22 and employees harmless from any and all claims, demands, damages, loss, liability,  
23 causes of action, costs or expenses (including reasonable attorneys' fees) whether  
24 or not reduced to judgment, arising from any breach or alleged breach of this  
25 warranty.

26 23. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
27 that Consultant has not employed or retained any entity or person to solicit or obtain this  
28 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,

1 commission, or other monies based on or from the award of this Agreement. If Consultant  
2 breaches this warranty, City shall have the right to terminate this Agreement immediately  
3 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments  
4 due under this Agreement or otherwise recover the full amount of the fee, commission, or  
5 other monies.

6           24.    WAIVER. The acceptance of any services or the payment of any  
7 money by City shall not operate as a waiver of any provision of this Agreement or of any  
8 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
9 Agreement shall not constitute a waiver of any other or subsequent breach of this  
10 Agreement.

11           25.    CONTINUATION. Termination or expiration of this Agreement shall  
12 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
13 17, 19, 22, and 28 prior to termination or expiration of this Agreement.

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

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

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

OFFICE OF THE CITY ATTORNEY  
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29. THIRD PARTY BENEFICIARY. This Agreement is not intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.

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.

September 10, 2018  
By [Signature]  
Name Monica Strauss  
Title Director

\_\_\_\_\_, 2018  
By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Tom Modica  
Assistant City Manager/Consultant

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER CITY OF LONG BEACH, a municipal corporation

Sept. 20, 2018  
By [Signature]  
City Manager

"City"

This Agreement is approved as to form on 9/17, 2018.

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

## 1. OVERVIEW OF PROJECT

The City of Long Beach (City) has a strong commitment to maintaining the rich heritage, cultural resources, and unique structures that reflect the diversity of the community and acknowledge its history. This commitment is fostered by the City's historic preservation initiatives and programs, such as the adaptive reuse guidelines, Mills Act Property Tax Abatement Program (Mills Act), Historic District Design Guidelines, and through community outreach and engagement activities.

The City's Department of Development Services (Department) assists property owners with the technical aspects of preservation, renovation, rehabilitation, and reuse of their historic sites. The Department also works with the community to promote an understanding and appreciation of the City's significant architectural and environmental history.

The City is seeking proposals from qualified consultants to provide historic preservation consulting services on an as-needed basis. The City intends to engage the services of one or more professional firms to provide technical, architectural, historical, and design guidance as related to preservation issues and projects within the City.



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## 2. ACRONYMS/DEFINITIONS

For purposes of this RFP, the following acronyms/definitions will be used:

<b>Awarded Consultant</b>	The organization/individual that is awarded a contract with the City of Long Beach, California for the services identified in this RFP.
<b>CEQA</b>	California Environmental Quality Act.
<b>City</b>	The City of Long Beach and any department or agency identified herein.
<b>Consultant</b>	Organization/individual submitting a proposal in response to this RFP.
<b>Department / Division</b>	City of Long Beach, Department of Development Services, Planning Bureau.
<b>DPR 523</b>	Forms used by the State of California, Department of Parks and Recreation, Office of Historic Preservation, for recording and evaluating resources and for nominating properties as California Historical Landmarks and/or California Points of Historical Interest to the California Register of Historical Resources.
<b>Evaluation Committee</b>	An independent committee comprised solely of representatives of the City established to review proposals submitted in response to the RFP, evaluate the proposals, and select a Consultant.
<b>HABS</b>	Historic American Building Survey.
<b>HAER</b>	Historic American Engineering Record.
<b>HUD</b>	United States Department of Housing and Urban Development.
<b>LGBT</b>	Lesbian, Gay, Bisexual & Transgender Community.
<b>May</b>	Indicates something that is not mandatory but permissible.
<b>Mills Act</b>	Mills Act Property Tax Abatement Program.
<b>RFP</b>	Request for Proposals.
<b>Shall / Must</b>	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.



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- Should** Indicates something that is recommended but not mandatory. If the Consultant fails to provide recommended information, the City may, at its sole option, ask the Consultant to provide the information or evaluate the proposal without the information.
- Subcontractor** Third party not directly employed by the Consultant who will provide services identified in this RFP.



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

The Awarded Consultant(s) shall assist the City with its historic preservation efforts on an as-needed basis. Services may include technical, architectural, historical, and/or design guidance. A more detailed scope of work is found in Section 7 – Project Specifications.

The Department may award to more than one consultant to execute different items as outlined in Section 7 – Project Specifications. Consultants shall clearly label responses to indicate which portions of the Project Specifications they are including in their proposal.



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#### 6.4 City Response to Protest

The City Purchasing Agent or designee will respond with a decision regarding the protest within five (5) business days of receipt of protest by email or US Mail to the address provided in the protest. This decision shall be final.

#### 6.5 Limitation of Remedy

The procedure and time limits set forth herein are mandatory and are the proposer's sole and exclusive remedy in the event of a protest. The proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue a protest, including filing a Government Code Claim or initiation of legal proceedings.

### 7. PROJECT SPECIFICATIONS

#### 7.1. General Support

Provide support services related to the review and administration of historic properties in the City of Long Beach. These services include but are not limited to the following:

- 7.1.1. Provide as needed records searches, resource evaluations, CEQA reports and DPR 523 forms in relation to local, state, and federal historic register listing criteria.
- 7.1.2. Prepare historic evaluations of properties/CEQA reports.
- 7.1.3. Peer review staff determinations of Certificates of Appropriateness, focusing on conformity between proposed improvements and the Secretary of Interior's Standard and Guidelines for Preservation, Rehabilitation, Restoration, and Reconstruction.
- 7.1.4. Provide independent peer review of CEQA and historic property reports as prepared by consultants retained by property owners that are required for landmark designation, district management, or for current planning review purposes.
- 7.1.5. Assure compliance with Section 106 of the National Historic Preservation Act and its application to any HUD-funded activities.
- 7.1.6. Review existing policies and procedures and make recommendations for changes to policy.
- 7.1.7. Coordinate with City staff regarding the integration of planning processes and historic preservation issues.



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- 7.2. Support staff review and maintenance of Mills Act contracts, which may include the following:
  - 7.2.1. Provide technical assistance to staff and property owners regarding property and building conditions, repairs, maintenance, and restoration.
  - 7.2.2. Provide recommendations based on property inspections on an as-needed basis.
- 7.3. Update the City's Historic Context Statement. The document is located at: <http://www.lbds.info/civica/filebank/blobdload.asp?BlobID=3169>
  - 7.3.1. Expand the list of local architects and discussion of architectural practice within Long Beach's history.
  - 7.3.2. Recognition of Midcentury Modern architecture and its historic context within the City.
- 7.4. Update the ethnographic section to provide more recent history in relation to the following:
  - 7.4.1. Latino culture, migration, and historical contributions.
  - 7.4.2. African American culture, and history, including but not limited to the prominent role Long Beach played in the development of Rap music.
  - 7.4.3. Create a new ethnographic section to document the recent history of Cambodian and other refugees settling within the City and the physical and cultural impact on the Anaheim Street and Cherry Avenue corridors.
  - 7.4.4. Appropriately recognizing the role and contribution of LGBT history within the City's culture and development.
- 7.5. Surveys
  - 7.5.1. Research historically and culturally significant properties that are not currently designated historic landmarks.
  - 7.5.2. Update evaluations for designated landmark properties including statements of integrity and identification of character defining features.
  - 7.5.3. Conduct focused surveys, including but not limited to:



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- 7.5.3.1. Citywide Midcentury Modern resources (this survey may be phased to first document commercial structures, followed by multifamily structures and later review single-family residences).
  - 7.5.3.2. Alamitos Beach and Franklin School communities (Land Use Element Implementation roughly bound by Alamitos Avenue, 7<sup>th</sup> Street, Cherry Avenue and Ocean Boulevard),
  - 7.5.3.3. 4th Street and Broadway commercial corridors (Alamitos Avenue to Ximeno Avenue).
  - 7.5.3.4. City-owned properties such as libraries, fire stations and park facilities.
- 7.5.4. Identify potential landmarks and/or historic districts based on work completed under Section 7.5.2 to update the context statement to reflect Latino, African American, LGBT, and Cambodian experiences.
- 7.5.5. Assist the City with objective evaluations of existing Landmark districts including mechanisms to increase compliance and restoration, re-surveying and updates to contributor/non-contributor lists, adjustments to district boundaries to protect additional resources and remove resources from outside the period of significance.
- 7.5.6. National and State Register Nominations
- 7.5.7. Evaluate the list of existing local landmarks for eligibility for state and/or federal listing, evaluate the potential for federal tax credits to incentivize rehabilitation of these resources.
- 7.5.8. Research and evaluate properties pursuant to relevant criteria.
- 7.5.9. Prepare national and state Register of Historic Places nominations.
- 7.5.10. Peer review national and state Register of Historic Places nominations from third parties.
- 7.6. Prepare and/or coordinate preparation of Historic American Building Survey (HABS)/ Historic American Engineering Record (HAER) documentation reports as needed.
- 7.7. Upon completion of the tasks referenced in Sections 7.1 through 7.7, update the General Plan Historic Preservation Element to reflect these changes as well as new landmarks added since the last update.  
<http://www.lbds.info/civica/filebank/blobload.asp?BlobID=3455>



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- 7.8. Identify and communicate to staff relevant grant and funding opportunities to best position the City to maintain a robust historic preservation program.
- 7.9. Assist staff with preparing brochures, flyers, website content, or other communications content, such as social media postings, videos and photographs to support the City's preservation program and encourage proper care of historic resources by property owners.
  - 7.9.1. Update or edit newly adopted Historic District Design Guideline documents as needed.  
[http://www.lbds.info/planning/historic\\_preservation/historic\\_district\\_guidelines.asp](http://www.lbds.info/planning/historic_preservation/historic_district_guidelines.asp)
  - 7.9.2. Coordinate with staff to prepare process map flow charts for use by City staff and the public.
- 7.10. Assist the City in evaluating new and expanded opportunities to monetize historic resources through adaptive reuse, tourism, special events, and other creative mechanisms.
- 7.11. Assist the City in identifying available grant funding to support the Long Beach historic preservation program and properties.
- 7.12. Develop and conduct trainings.
  - 7.12.1. Develop and conduct trainings for staff, including how to identify and evaluate nontraditional cultural assets, and for routine tasks, such as evaluating against Secretary of the Interior Standards.
  - 7.12.2. Develop and conduct trainings on range of historic preservation topics for the Cultural Heritage Commission.
- 7.13. Research and evaluate innovative community engagement tools for identifying historic assets, raising awareness about the value and importance of historic preservation, and for communicating about historic preservation regulatory processes such as obtaining a Certificate of Appropriateness.

8. **WARRANTY/MAINTENANCE AND SERVICE**

Not applicable.

9. **COMPANY BACKGROUND AND REFERENCES**

9.1 Primary Consultant Information

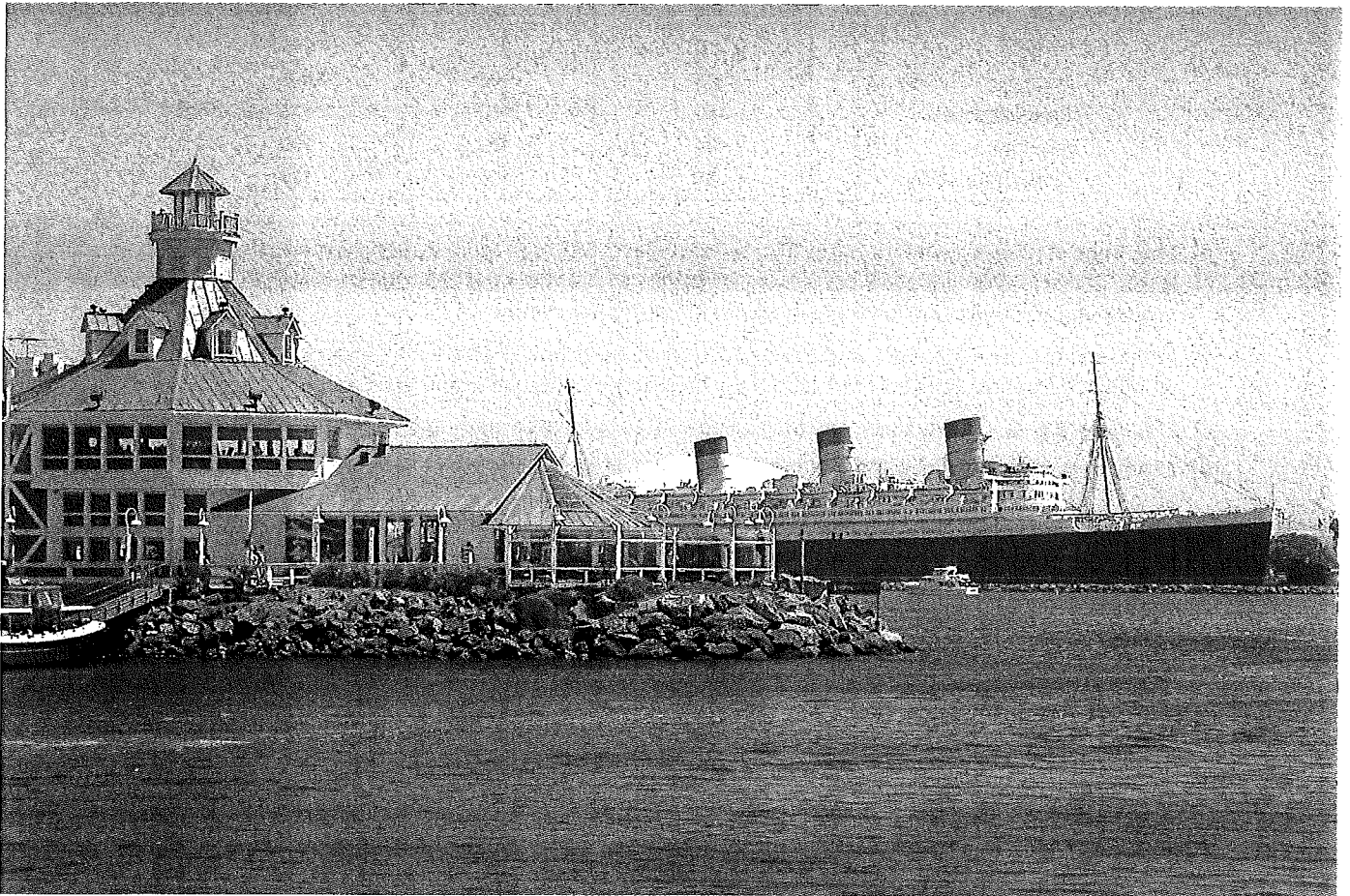


# EXHIBIT “B”

Cost Proposal

City of Long Beach

# Cost Proposal for On-Call Historic Preservation Consultant Services



Work That Matters

April 26, 2018

# Cost Proposal

## Personnel Category Rates

Charges will be made at the category hourly rates set forth below for time necessarily incurred by direct project activities (e.g., project management, consultation or meetings related to the project, field work, report preparation and review, project-related travel time). These rates reflect ESA's fully burdened hourly rates, inclusive of direct labor rates and indirect cost rate (overhead, general and administrative costs, and fringe benefits). Time spent on projects in litigation, in depositions and providing expert testimony will be charged at the category rate times 1.5.

Labor Category	Level I	Level II	Level III
Senior Director	265	280	300
Director	210	225	240
Managing Associate	175	190	205
Senior Associate	150	160	170
Associate	105	125	135
Project Technicians	85	100	120

- (a) The range of rates shown for each staff category reflects ESA staff qualifications, expertise and experience levels. These rate ranges allow our project managers to assemble the best project teams to meet the unique project requirements and client expectations for each opportunity.
- (b) From time to time, ESA retains outside professional and technical labor on a temporary basis to meet peak workload demands. Such contract labor may be charged at regular Employee Category rates.
- (c) ESA understands the City does not allow billable rates to include mark-ups on reimbursable items.
- (d) ESA understands the City will not reimburse for mileage nor for the use of computer equipment.

## ESA Expenses

ESA shall invoice the City for direct expenses necessarily incurred in the provision of project-related services under the on-call contract. These include, but are not limited to, car rentals, lodging, meals, postage, delivery/courier services, and specialty reprographics. Unit costs associated with in-house printing and reproduction fees are outlined below. ESA understands that the City shall not reimburse for mileage nor the use of computer equipment. All expenses shall be invoiced at cost, with no-mark-up.

## Printing/Reproduction Rates

Item	Rate/Page	Sample Pricing
Black & White – 8.5 x 11	\$0.10	
Black & White – 11 x 17	\$0.20	
Color – 8.5 x 11	\$0.40	
Color – 11 x 17	\$0.70	
B&W – Plotter (Toner – ECO Quality)	\$0.40/sf	24x36 B/W CAD drawing would cost \$2.40 per sheet

## Cost Proposal

Item	Rate/Page	Sample Pricing
B&W – Plotter (Toner – Presentation Quality)	\$1.00/sf	24x36 B/W CAD drawing would cost \$6.00 per sheet
Color – Plotter (Inkjet – ECO Quality)	\$2.00/sf	24x36 Color Drawing would cost \$12 per sheet
Color – Plotter (Inkjet – Presentation Quality)	\$4.00/sf	24x36 Color Drawing would cost \$24 per sheet
CD	\$10.00	
Digital Photography	\$20.00 (up to 50 images)	
All Other Items (including bindings and covers)	At cost plus 10%	

## Subconsultant Rate

Rates for ESA's anticipated subconsultant are outlined below. ESA shall bill the City for services performed by our subconsultant without mark-up.

### Photography Fees

\$200.00/hour

### Digital Processing

\$100.00/hour

### Film @ Processing

\$10.00 per sheet, 4x5 B&W film & processing (archival processing)

### Printing

\$15.00 per contact print, 4x5 B&W contact prints (archival processing)

### Enlargements

\$35.00 per 8x10 B&W enlargement (archival processing)

Equipment Rental - lighting, lenses, generators, etc.

Per quote

# EXHIBIT “C”

City’s Representative:

Director of Development Services or Designee

# EXHIBIT “D”

Materials/Information Furnished: None

# EXHIBIT “E”

Consultant’s Key Employee:

Monica Strauss