

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

AGREEMENT

34950

THIS AGREEMENT is made and entered, in duplicate, as of May 29, 2018 for reference purposes only, pursuant to Resolution No. RES-18-0073, adopted by the City Council of the City of Long Beach at its meeting on May 22, 2018, by and between VASQUEZ & COMPANY, LLP ("Consultant"), with a place of business at 801 South Grand Avenue, #400, Los Angeles, California 90017, and the CITY OF LONG BEACH ("City"), a municipal corporation.

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with direct project management support for the implementation of Long Beach COAST, the City's new ERP system ("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 Two Hundred Twenty-Five Thousand Dollars (\$225,000), at the rates or charges shown in Exhibit "A".

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.

28 F. CAUTION: Consultant shall not begin work until this

1 Agreement has been signed by both parties and until Consultant's evidence of
2 insurance has been delivered to and approved by City.

3 2. TERM. The term of this Agreement shall commence at midnight on
4 May 22, 2018, and shall terminate at 11:59 p.m. on May 22, 2019, unless sooner
5 terminated as provided in this Agreement, or unless the services or the Project is
6 completed sooner. The Agreement may be extended for an additional one (1) year period,
7 at the discretion of the City Manager.

8 3. COORDINATION AND ORGANIZATION.

9 A. Consultant shall coordinate its performance with City's
10 representative, if any, named in Exhibit "B", 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 "C", 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, Steve Fulmer. City shall have the right to approve any person proposed
20 by Consultant to replace that key employee.

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

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

5 5. INSURANCE.

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

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

28 ii. Workers' Compensation insurance as required by the

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

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

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

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

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

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

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

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

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

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

23 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
24 contemplates the personal services of Consultant and Consultant's employees, and the
25 parties acknowledge that a substantial inducement to City for entering this Agreement was
26 and is the professional reputation and competence of Consultant and Consultant's
27 employees. Consultant shall not assign its rights or delegate its duties under this
28 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval

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

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

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

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

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

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

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

25 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
26 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
27 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available
28 without breach of this Agreement by Consultant; or (c) a third party who has a right to

1 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
2 disclosed pursuant to subpoena or court order.

3 13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

22 15. LAW. This Agreement shall be construed in accordance with the laws
23 of the State of California, and the venue for any legal actions brought by any party with
24 respect to this Agreement shall be the County of Los Angeles, State of California for state
25 actions and the Central District of California for any federal actions. Consultant shall cause
26 all work performed in connection with construction of the Project to be performed in
27 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,
28 county or municipal governments or agencies (including, without limitation, all applicable

1 federal and state labor standards, including the prevailing wage provisions of sections 1770
2 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire
3 marshal, health officer, building inspector, or other officer of every governmental agency
4 now having or hereafter acquiring jurisdiction.

5 16. PREVAILING WAGES.

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

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

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

26 18. INDEMNITY.

27 A. Consultant shall indemnify, protect and hold harmless City, its
28 Boards, Commissions, and their officials, employees and agents ("Indemnified

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

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

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

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

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

3 20. NONDISCRIMINATION.

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

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

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

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

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

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

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

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

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

22. NOTICES. Any notice or approval required by this Agreement shall be in writing and personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid, addressed to Consultant at the address first stated above, and to City at 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy to the City Engineer at the same address. Notice of change of address shall be given in

1 the same manner as stated for other notices. Notice shall be deemed given on the date
2 deposited in the mail or on the date personal delivery is made, whichever occurs first.

3 23. COPYRIGHTS AND PATENT RIGHTS.

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

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

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

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

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

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Long Beach, CA 90802-4664

1 Agreement.

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

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

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

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

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

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

May 30, 2018

VASQUEZ & COMPANY, LLP
By GT Vasquez
Name GILBERT VASQUEZ
Title managing partner

May 30, 2018
Tom Medica
Assistant City Manager

By Rene Martinez
Name Rene Martinez
Title Partner

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

"Consultant"
CITY OF LONG BEACH, a municipal
corporation

June 20th, 2018
J. Bill

By J. Bill
City Manager

"City"
This Agreement is approved as to form on June 5, 2018.

CHARLES PARKIN, City Attorney
By Angelle
Deputy

EXHIBIT "A"

Scope of Work

Project Sponsor Support - Scope of Work – Steve Fulmer

Vendor and basic terms: Vasquez for consulting services of Steve Fulmer at \$225.00 per hour as needed. Services may be terminated at any time by either party.

Background

The Tyler/Munis ERP implementation project (Project) is well under way with financials seven months from go-live (10/1/18), and HR/Payroll ten months from go-live (1/1/19).

While much of the Project is proceeding fairly well, the Project Sponsor is not satisfied with the status of a number of aspects of the project, including status reporting, apparent shortfalls in resources, and shortfalls in planning, coordination, or actions.

One cause is believed to be a lack of adequate project management resources. Another cause, based on the hours put into the project by the Project Sponsor, is that direct project management support is needed for the Project Sponsor (and also for the TID Bureau Head responsible for the Project).

A consultant providing "Project Sponsor Support" is one aspect of the additional resources needed. The associated scope of work (this document) is intended to assist the Project Sponsor (the CFO) and the TID Bureau Head to which the project manager reports. This scope is not expected to directly resolve all Project Management resource shortfalls, but is expected to be indirectly helpful in that area. Additional resources are expected to be needed for the Project to be successful.

General Scope

This contractor's main tasks are:

1. Provide appropriate information: Ensure that Project Management, the Project Sponsor, TID Management, and the Project's Leadership and Steering committee have the information they need, in a timely basis, to assess status, and make decisions appropriate to their respective roles.
2. Maintain an appropriate project organization and team: Ensure that recommendations as to the appropriate organization and staffing are made to provide the necessary resources, skills, and knowledge for a successful project, and when approved, are implemented and that continuous assessment is done for any needed organizational changes.
3. Maintain appropriate Project Management: Ensure that Project Management, which is a component of the Project team, inclusive of the contractor, has the information and resources it needs, is making the necessary decisions, and taking appropriate and timely actions across the entire range of the Project.
4. Keep Project on track: Ensure that timeframes are appropriately established, and recommendations are made, and subsequent actions are taken, so that all aspects of the project are on track or are placed on track, that, as appropriate, any adjustments to the project are made, and that the budget is tracked and managed. The issues to be addressed may or may not be specifically listed in this scope of work.

5. Implement additional project management support as necessary. If, as expected, Project Management confirms that additional support for Project Management is needed from external sources, identify projects that can be compartmentalized and farmed out to temporary contractors and integrate the work into the overall project.
6. Prioritize work (1st priority). There are a number of potential or actual project management issues and assignments included in this scope and that may be determined in conversation/coordination with the Project Manager and from observation and discussion. The top priority is to prioritize these issues and address them based on prioritization.
7. Complete outstanding work. Prioritize and carry-out the "specific items" assignments with the Project Manager and Project team as shown in Attachment 1.
8. Determine and secure temporary assistance, as appropriate, for priority assignments. Review Attachment 2 as candidates for assignments for temporary contract support and determine how to proceed, whether with contract support or with internal staff or some other solution.

Organizational Role of Project Sponsor Support Consultant

- The basic Project management and Project structure is not changed with the addition of this consultant.
- The contractor/consultant will report to the Project Sponsor with dotted lines to the TID Director and associated Bureau Head and the Project Manager will continue that way also.
- The contractor and project manager are expected to work together and work out issues together associated with normal project management and with the specific tasks associated with this scope.
- In the event of conflict with regard to decisions, the Project Manager is ultimately intended to implement general direction from the consultant as a proxy for the Project Sponsor, who in turn is acting on behalf of the Steering Committee and TID. However, the Project Manager maintains direct access to the Project Sponsor and TID and may seek clarification of any direction.
- It is emphasized that the consultant is not performing a QA role, but rather an active role in project management. Among other things, the contractor is intended to assist with those tasks that the Sponsor has typically done and to ensure, by way of actions, that overall Project Management, inclusive of the consultant, is what it needs to be for success.

Attachment 1
Some Specific Items for Project Management To Address
 (Not in any order)

Item
<p>1. Project Plan Review and Improvement</p> <ul style="list-style-type: none"> • Assess, recommend and make any necessary changes to the Project Plan to ensure it usefulness for the project, including managerial approach and "related projects." • Ongoing monitoring and reporting on project status, including conformance to Project Plan. • Ensure plan incorporates City side aspects and such items as change management, hardware, design, testing, conversion, interfaces, reporting, collections, and "related" projects, whether or not they are currently contained in the Project Plan.
<p>2. Ongoing Reporting on Project Status</p> <ul style="list-style-type: none"> • Provide ongoing, timely assessments (reporting) of the project status including accomplishments, challenges solutions, tasks/assignments and follow-up status, etc. • Includes all aspects of the Project, including software modules, conversion, Interfaces, testing, training, reporting (system outputs), and "related" projects. • The reporting is intended to be primarily used for the Project Sponsor, for TI Management, and for the Steering Committee (may not be identical reports). The reporting process may include both formal and informal reporting, and may be both verbal and written. • Reporting process should include a special/immediate special reporting process for any important/time sensitive items.
<p>3. Project Organization and Staffing</p> <ul style="list-style-type: none"> • Review Project staffing levels, skill sets, and organization structure to ensure they are best meeting Project needs. Provide any recommendations for change, implement any changes after approval, and ensure any necessary support is provided. • This includes a review of both Tyler staff on the project and City staff on the Project, including their assignments and responsibilities. • The review includes the role of department liaisons and departmental SMEs, including their availability to fill assigned roles and whether the liaisons positions are appropriately staffed. • The analysis should consider the limited resources available, the difficulty filling staff positions and the limited staff expertise and knowledge available. • The analysis should take into account that staff cannot work unsustainable hours.
<p>4. Sub-team (Module) Work</p> <ul style="list-style-type: none"> • Review the manner by which Project sub-teams (modules and "related" project and sub-groups such as conversion, et al) do work including their structure and work approach to gauge their effectiveness, progress, morale, work environment, and the manner in which meeting are conducted. This includes determining whether appropriate preparation and meeting facilitation is taking place to ensure meetings go smoothly and decisions are effectively and appropriately considered and made.
<p>5. Steering Committee and Leadership Committee</p> <ul style="list-style-type: none"> • Review and refine the role of the Steering Committee and the Leadership Committee and the approach to providing information, getting decisions, and reporting actions.

6. Procedure, Process, and Policy Changes

- Develop and implement a reporting mechanism that identifies major procedure, process, and policy changes for review by City Management and allows the reporting to be used for training and documentation.

7. Business Process Improvement

- Review and manage the "Business Process Improvement" track of the Project to ensure this aspect of project is appropriately designed, the staffing and management plan is appropriate, a well-designed change management plan and strategy exists and the best interim actions are being taken until full staffing occurs.
- Each component should be explicitly reviewed and include change management, project training, testing, and procedure development, morale, and meeting management aspects
- Put in place the appropriate staffing to implement.

8. Issues Logging, Tracking, and Resolution

- Review the various "issues" logging, tracking, and resolution processes, and develop and implement any recommendations for improvements. The recommendations should be based on who the users are and/or should be.

9. City and Tyler Interaction

- Review the way the City and Tyler work together. Make recommendations for improvements and implement those improvements in conjunction with the Project Sponsor and TI.
- Adjust the Project Plan according to what Tyler does and does not do.
- Identify and implement improvements in the manner Tyler and City staff work together for a more productive and enjoyable working environment.
- Identify potential items in the contract where Tyler is in "non-compliance" to assist in negotiations intended to improve the situation and also receive usable financial credit for Tyler services not used.
- Develop and implement strategies for negotiating with Tyler to best help the City achieve its goals. We do not want to pay for services not received or not received in an effective, usable manner. We also need to specifically resolved reporting.

10. System Report Writing

- Develop and implement an updated strategy on report generation, particularly the use of Simpler Systems vs. Tyler report writers. The presumption is that Simpler Systems and Cardon Solutions should be the primary focus of the report writing and generation. Evaluate whether that is the appropriate approach, develop a complete strategy for the best implementation approach, and implement approved plan. The strategy should be incorporated into the project plan and worked out with Tyler.

11. Hardware and Network Communications

- Review the status of hardware and network (data) communication needs to ensure they are clearly identified. Work with TI and others as necessary to ensure needs are addressed timely and/or other solutions put in place.

12. Application Environment

- Review the MUNIS application environments (IMPL, HR, Ocean, Train, Test/QA, and Production). Confirm the environments are being appropriately used and sequenced and/or make recommendations and implement recommendations. Other staff or resources may be used.

13. Budget for the Project

- Improve the budget process to maintain an accurate, ongoing budget status/projection for the Project. The approach should allow easy "what-if" testing of different budget situations. The budget status should allow easy determination of the remaining contingency and allow new projected costs or savings to be easily added or deleted.

14. Production Cut-over

- Identify and prepare a plan and solve the issues for cut-over to new system at Phase I and Phase II and Phase Ia (when old system closing entries are put in Munis) and for cut-over to new budget system in Phase III.

15. Post-Go Live Phases

- Develop initial concepts/outlines for expected future phases of the project and for the approach to ongoing LB COAST operations such as help desk, work flow, and technical support.
- Identify initial staffing and cost requirements for future phases of implementation. Includes any Tyler support that may be needed.
- Need for support if there are major system work-arounds or issues
- Future "implementation" phases include: deferred implementation of functional items, post-live enhancements, and newly available functionality releases. The concept should include an approach to prioritize these efforts, and identify resource and cost requirements.
- Includes funding requirements

16. Future Operations Approach and Structure

- Identify initial staffing and cost requirements for ongoing operations for ongoing operations. Costs should be net of eliminated old costs, but the eliminated costs must be identified (to avoid double counting of savings).
- Develop an initial outline and recommendation on what the ongoing support for LB COAST should be including in resources, their organization locations, staffing level and cost (all costs, not just staffing).
- Initial concept (strawman) is that support to users and security remains in Financial Management and Technical support is in Technology and Information.
- Address potential loss of knowledge with the contract staff and retirements associated with people working on the project.
- Includes funding requirements

17. QA Findings and Recommendations

- Address (implement) any of the findings and recommendations of QA reports that are not otherwise covered by the above tasks, unless they have been directed to not implement by Project Sponsor or Steering Committee.

Attachment 2
Potential Assignments for Temporary Project Staff to Assist Project Management

Improvements to the Project Plan and Timing

Improve the project plan, probably to include some reasonable details for all aspects of the project including Change Management, Report Creation, and other key functions that may not have sufficient detail. The plan also needs to be reviewed for appropriateness to the current situation. How the plan is managed on a day-in, day-out basis should also be reviewed and modified, if necessary.

Process Training

Process training is just starting and has tight deadlines. Some assistance may be needed to ensure Tyler has adequately tested the module set-ups and found the major bugs before process training begins (to avoid waste of time) and that Tyler appropriately prepares for and rehearses for the meetings to ensure efficient use of City staff resources. (May be internally done).

UAT

While it is Tyler's responsibility to "develop [the] User Acceptance Test Plan," based on previous experience, it is not expected that their work will be all that is needed. Tyler's role and their acceptance of responsibility is not crystal clear nor is their ability or desire to manage the process in the manner needed to meet the needs of the City). One example is that Tyler test scripts in the past have been generic and not related to specific City needs. At the least, substantial City involvement is needed in this area. The City has limited resources to ensure that a good plan exists, that people are available, and that the process is managed.

End User Training

Planning needs to be developed and/or reviewed for EUT and to put together a high-level plan. LB-COAST staff is working on materials and have ideas, but this will ultimately be a massive effort to coordinate, and someone with experience putting a large End-User Training program may be appropriate.

Interfaces and Conversion

A review of status, including whether the conversions and interfaces are being designed with the right inputs, whether they are appropriately fit into the project plan, and identification of any substantive issues. For conversions, there are special considerations including resources for validations, conversions that may occur at different times and stages (e.g., immediately prior to go-live, and substantially after go-live).

Reporting

There are disparate views as to the approach to reporting. The work with Tyler on this has been largely suspended and an alternative approach has been described, but direction, responsibility and resources needs to be urgently clarified and resolved. This is related to Item 10 in Attachment 1.

EXHIBIT "B"

City's Representative:

Luis Frausto, Administrative Operations Officer

(562) 570-6233

EXHIBIT "C"

Materials/Information Furnished: None

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2/23/18 Final

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EXHIBIT “B”

City’s Representative:

Luis Frausto, Administrative Operations Officer

(562) 570-6233

EXHIBIT "C"

Materials/Information Furnished: None