

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4664

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2  
3 AGREEMENT

4 **35573**

5 THIS AGREEMENT is made and entered, in duplicate, as of June 16, 2020  
6 for reference purposes only, pursuant to a minute order adopted by the City Council of the  
7 City of Long Beach at its meeting on May 12, 2020, by and between EDM SERVICES,  
8 INC., a California corporation ("Consultant"), with a place of business at 4100 Guardian  
9 Street, Suite 250, Simi Valley, California 93063, and the CITY OF LONG BEACH, a  
10 municipal corporation ("City").

11 WHEREAS, the City requires specialized services requiring unique skills to  
12 be performed in connection with as-needed on-call professional engineering and  
13 inspection services ("Project"); and

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

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

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

23 1. SCOPE OF WORK OR SERVICES.

24 A. Consultant shall furnish specialized services more particularly  
25 described in Exhibit "A", attached to this Agreement and incorporated by this  
26 reference, in accordance with the standards of the profession, and City shall pay for  
27 these services in the manner described below, in an amount not to exceed One  
28 Million Dollars (\$1,000,000) annually, 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.

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

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

2. TERM. The term of this Agreement shall commence at midnight on July 1, 2020 and shall terminate at 11:59 p.m. on June 30, 2021, unless sooner terminated as provided in this Agreement, or unless the services or the Project is completed sooner. The term may be extended for four (4) additional periods one-year periods, at the discretion of the City Manager.

3. COORDINATION AND ORGANIZATION.

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

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

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

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

6 5. INSURANCE.

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

14 i. Commercial general liability insurance (equivalent in  
15 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less  
16 than One Million Dollars (\$1,000,000.00) per each occurrence and Two  
17 Million (\$2,000,000.00) general aggregate. This coverage shall include but  
18 not be limited to broad form contractual liability, cross liability, independent  
19 contractors liability, and products and completed operations liability. The  
20 City, its boards and commissions, and their officials, employees and agents  
21 shall be named as additional insureds by endorsement (on City's  
22 endorsement form or on an endorsement equivalent in scope to ISO form CG  
23 20 10 11 85 or CG 20 26 11 85 or both CG 20 10 07 04 and CG 20 37 07 04  
24 or both CG 20 33 07 04 and CG 20 37 07 04), and this insurance shall contain  
25 no special limitations on the scope of protection given to the City, its boards  
26 and commissions, and their officials, employees and agents. This policy shall  
27 be endorsed to state that the insurer waives its right of subrogation against  
28 City, its boards and commissions, and their officials, employees and agents.

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ii. Workers' Compensation insurance as required by the California Labor Code and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00). This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

iii. Professional liability or errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim.

iv. Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) combined single limit per accident.

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

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

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

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

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

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

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

13 19. NONDISCRIMINATION.

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

23 B. It is the policy of City to encourage the participation of  
24 Disadvantaged, Minority and Women-owned Business Enterprises in City's  
25 procurement process, and Consultant agrees to use its best efforts to carry out this  
26 policy in its use of subconsultants and contractors to the fullest extent consistent  
27 with the efficient performance of this Agreement. Consultant may rely on written  
28 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. FORCE MAJEURE. If any party fails to perform its obligations  
7 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain  
8 labor or materials or reasonable substitutes for labor materials, governmental restrictions,  
9 governmental regulations, governmental controls, judicial orders, enemy or hostile  
10 governmental action, pandemic, civil commotion, fire or other casualty, or other causes  
11 beyond the reasonable control of the party obligated to perform, then that party's  
12 performance will be excused for a period equal to the period of such cause for failure to  
13 perform.

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

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

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

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

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

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

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

13 22. NOTICES. Any notice or approval required by this Agreement shall  
14 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
15 postage prepaid, addressed to Consultant at the address first stated above, and to the City  
16 at 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager with a  
17 copy to the City Engineer at the same address. Notice of change of address shall be given  
18 in the same manner as stated for other notices. Notice shall be deemed given on the date  
19 deposited in the mail or on the date personal delivery is made, whichever occurs first.

20 23. COPYRIGHTS AND PATENT RIGHTS.

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

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

27 C. Consultant warrants that the Data does not violate or infringe  
28 any patent, copyright, trade secret or other proprietary right of any other party.

1 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials  
2 and employees harmless from any and all claims, demands, damages, loss, liability,  
3 causes of action, costs or expenses (including reasonable attorneys' fees) whether  
4 or not reduced to judgment, arising from any breach or alleged breach of this  
5 warranty.

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

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

19 26. CONTINUATION. Termination or expiration of this Agreement shall  
20 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
21 17, 19, 22, and 28 prior to termination or expiration of this Agreement.

22 27. TAX REPORTING. As required by federal and state law, City is  
23 obligated to and will report the payment of compensation to Consultant on Form 1099-  
24 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
25 resulting from payments under this Agreement. Consultant shall submit Consultant's  
26 Employer Identification Number (EIN), or Consultant's Social Security Number if  
27 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of  
28 Financial Management. Consultant acknowledges and agrees that City has no obligation

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1 to pay Consultant until Consultant provides one of these numbers.

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

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

9 30. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
10 designed to or entered for the purpose of creating any benefit or right for any person or  
11 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.

EDM SERVICES, INC., a California corporation

June 19, 2020

By [Signature]  
Name Lacey Payne  
Title President & CEO

\_\_\_\_\_, 2020

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

"Consultant"

CITY OF LONG BEACH, a municipal corporation

July 7, 2020

By Brenda J. Saturn

~~BY MANAGER~~ PURSUANT TO SECTION 301 OF THE CITY CHARTER

"City"

This Agreement is approved as to form on June 29, 2020.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4664



# EXHIBIT "A"

Scope of Work

## **SCOPE OF PROJECT RFQ ER19-138 ON-CALL ENGINEERING SERVICES**

### **1. PROJECT DESCRIPTION AND OVERVIEW**

The City of Long Beach (City) Energy Resources Department (LBER) desires to maintain a list of on-call professional services consultants. Contracts for professional services will be utilized for planning, design, administration and inspection of capital projects, as well as for various studies, analyses, and reports.

LBER is requesting Statements of Qualifications (SOQs) from experienced consultants to provide engineering and support services on a prequalified, on-call basis relative to any of the following project types:

#### **1. Natural Gas Distribution Design**

- a. Plans, Specifications, and Estimates (PS&E) Development & Review
- b. Permit Acquisition, Legal Easement Preparation
- c. Inspection & Construction Management

#### **2. Cathodic Protection Design**

- a. PS&E Development & Review
- b. Permit Acquisition, Legal Easement Preparation
- c. Inspection & Construction Management

### **2. SCOPE OF SERVICES**

#### **2.1 General**

LBER will appoint designated Consultants to provide contract support services under the direction of LBER.

#### **2.2 Administrative & Miscellaneous Duties**

2.2.1 When directed, Consultant(s) shall perform studies & analyses, prepare written reports, attend meetings, and present information to City personnel, the City Council or its appointed Commissions.

2.2.2 When directed, Consultant(s) shall analyze LBER's needs, collect data, perform research, and prepare and administer long-and-short-range capital improvement programs consistent with the economic capabilities of LBER.

2.2.3 Consultant(s) shall attend staff level meetings with LBER staff, developers, contractors, and the public.

2.2.4 When directed, Consultant(s) shall provide technical advice to LBER personnel.

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2.2.5 Consultant(s) shall establish working relationships and coordination with other public agencies.

2.2.6 Consultant(s) shall log and review plans submitted for gas service plan check.

### **2.3 Capital Projects**

As requested, Consultant(s) shall perform the following services:

2.3.1 Develop & review PS&E.

2.3.2 Provide design, construction administration, and inspection services.

2.3.3 Perform site visits throughout project lifespan as needed.

2.3.4 Provide reports regarding capital improvements, construction materials, maintenance, and related matters.

2.3.5 Process PS&E through other agencies for review and approval in connection with permit requirements (Caltrans, LA County, Orange County, Signal Hill, etc).

### **2.4 LBER-Furnished Services**

At its sole discretion, LBER will furnish to Consultant all the available records, reports, and any other available information that may be helpful to the Consultant in the performance of its assigned projects or assignments. Additionally, LBER will provide project oversight through an assigned Project Manager (PM) as designated by LBER. The LBER PM will act as the primary point of contact.

# EXHIBIT "B"

Rates or Charges



**2020 Engineering Hourly Billing Rates LBER**

January 1, 2020 through December 31, 2020

Administrative Assistant	60.43/Hour	Planner	99.06/Hour
Construction Man Oversight	101.18/Hour	Project Controls Analyst	128.70/Hour
Design Team Lead	148.02/Hour	Project Engineer 1	104.41/Hour
Designer 1/Senior Technician	87.42/Hour	Project Engineer 2	134.90/Hour
Designer 2	105.09/Hour	Project Engineer 3	174.50/Hour
Designer 3	129.36/Hour	Project Manager 1	166.23/Hour
Engineer 1	101.18/Hour	Project Manager 2	175.34/Hour
Engineer 2	129.50/Hour	QA/QC Lead	155.95/Hour
Engineer 3/Senior Engineer	155.95/Hour	Technical Consultant 1	113.31/Hour
Engineering Team Lead/Principle	181.04/Hour	Technical Consultant 2	136.99/Hour
Owner's Engineer	159.40/Hour	Technician	80.14/Hour

**Other Charges:**

Automobiles	IRS Rate/Mile
CAD/CAE Station	10.00/Hour
Total Survey Station	18.00/Hour
Stoner Pipeline Simulator	50.00/Hour
CAESAR II	25.00/Run
Differential GPS Survey Station with Data Logger	300.00/Day
Total Survey Station	150.00/Hour

**Notes:**

1. The above hourly billing rates will be multiplied by the following figures for overtime worked.
  - 100% Straight Time - 8 hours per day, Monday through Friday.
  - 130% Overtime - Over 8 hours, but less than or equal to 12 hours per day, Monday through Friday. The first 8 hours on Saturday.
  - 160% Premium Time - Over 12 hours, Monday through Friday. After 8 hours on Saturday. Sundays and holidays.
2. All invoices are due and payable within 30 days. 1.5% monthly interest will be added to balances outstanding for more than 30 days.
3. 10% will be added to all subcontracted and third party services, material list prices, airfare, lodging, meals, special mailings, long distance telephone, reproduction, binding, etc.
4. Depositions, court appearances, public testimony, and similar special services, as well as preparation for same, shall be billed at 150% of the above rates.
5. Plotting Supplies
 

	"A"	"B"	"C"	"D"	"E"
Check Print	0.50	1.00	1.50	2.00	4.00
Vellum	1.00	2.00	3.00	4.00	6.00
Mylar	1.50	3.00	4.50	6.00	12.00
6. For materials and equipment delivered outside of California, sales and use taxes will not be collected. The payment of these taxes will be Client's responsibility.

# EXHIBIT “C”

City Representative

Chuck Querido, Superintendent of Engineering

Long Beach Energy Resources

(562) 570-2036

[chuck.querido@longbeach.gov](mailto:chuck.querido@longbeach.gov)

# EXHIBIT "D"

Materials/Information Furnished: None

# EXHIBIT “E”

Consultant’s Key Representative

T.L. Butch Walls, Principal PE

EDM Services, Inc.

(805) 558-3226

[TLWalls@edmsvc.com](mailto:TLWalls@edmsvc.com)