

35047

**AGREEMENT:
CITY OF LONG BEACH –
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

**AGREEMENT FOR PROFESSIONAL SERVICES –
(ON-CALL) RISK ASSESSMENT**

This AGREEMENT is between the CITY OF LONG BEACH, a municipal corporation, (hereinafter referred to as the "CITY"), and THE STATE OF CALIFORNIA, OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (hereinafter referred to as the "CONTRACTOR"). This AGREEMENT is effective upon the approval signature dates of the CITY and CONTRACTOR, whichever date is the latter.

I. RECITALS

WHEREAS, CITY desires technical assistance in risk assessment for the residents of the CITY by contracting with CONTRACTOR; and

WHEREAS, CITY AND CONTRACTOR desire cooperation and coordination in implementing joint responsibilities towards risk management; and

WHEREAS, CONTRACTOR is prepared to provide such services in the terms and conditions set forth in this agreement and attachments which are part of this agreement; and

WHEREAS, CITY and CONTRACTOR desire to enter into this Agreement on the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the CITY and CONTRACTOR agree as follows:

II. TERMS AND CONDITIONS

A. MISSION. The CITY hereby retains the CONTRACTOR and the CONTRACTOR hereby accepts such responsibility as described herein.

B. TERM. The term of this Agreement shall commence as of the date of execution of this Agreement and shall continue in effect until the services provided for herein have been performed or until 24 months from the execution of this Agreement, whichever occurs sooner, unless this Agreement is sooner terminated as provided for hereinafter. Services shall be undertaken and completed in such a sequence as to assure their effectiveness in implementing this Agreement. This AGREEMENT may be amended for a period not to exceed an additional 24 months,

upon written agreement between the parties, provided the funds allocated herein have not been exhausted.

C. CONTRACTOR RESPONSIBILITIES. The CONTRACTOR'S services shall include the professional services as detailed in EXHIBIT A.

D. COMPENSATION. The compensation for the services as outlined in EXHIBIT A shall not exceed Forty Thousand Dollars (\$40,000). CONTRACTOR will submit monthly invoices to the CITY at the rates set forth in EXHIBIT B.

All invoices should be accompanied by documentation setting forth in detail a description of the services rendered. The CITY shall make payment within 30 days of receipt of invoice. Invoices shall be sent to:

*Long Beach Department of Health and Human Services
Attention: Nelson Kerr
2525 Grand Avenue
Long Beach, CA 90815*

When payment by the CITY is deemed delinquent, OEHHA may follow collection procedures in accordance with the Accounts Receivable Management Act as provided in Government Code Sections 16580-16586.

E. REIMBURSABLE EXPENSES. The CONTRACTOR shall bill the CITY for reimbursable expenses including mass production photocopying, photographs and slides, mileage, messenger service, parking and long-distance phone calls.

F. OWNERSHIP OF DOCUMENTS. All studies, papers, files, drawings, contracts, reports and other such documents prepared or developed in accordance with this AGREEMENT by the CONTRACTOR shall remain the property of the CITY.

G. INDEPENDENT CONTRACTOR. The CONTRACTOR shall perform the work as provided herein as an independent contractor and shall not be considered an employee of the CITY or under CITY supervision or control. This AGREEMENT is by and between the CONTRACTOR and the CITY, and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or associate, between the CITY and the CONTRACTOR.

H. INDEMNIFICATION. ***(Note: Non-negotiable term and condition. Failure to accept Item H as stated below will require OEHHA to withdraw offer of services).*** CONTRACTOR agrees to indemnify, defend and save harmless the CITY, its agents, officers and employees only from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever including, but not limited to, bodily injury, death, personal injury,

or property damage arising from or directly connected with the CONTRACTOR'S review of the assessment of human health and/or environmental risks at the Site which services are more particularly described in Exhibit A.

I. SUCCESSOR AND ASSIGNMENT. The services as contained herein are to be rendered by the CONTRACTOR whose name is as appears first above written and said CONTRACTOR shall not assign nor transfer any interest in this AGREEMENT without the prior written consent of the CITY. Claims for money by CONTRACTOR from the CITY under this contract may be assigned to a bank, trust company, or financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the CITY.

J. INSURANCE. *(Note: Non-negotiable term and condition. Failure to accept Item J as stated below will require OEHHA to withdraw offer of services).* CITY agrees to accept evidence of self-insurance from CONTRACTOR for all lines of insurance, including General Liability and Workers' Compensation Insurance. The CONTRACTOR shall provide the CITY with satisfactory evidence of self-insurance coverage upon the CITY's request.

Workers' Compensation. The CONTRACTOR agrees to maintain at its expense, during the term of this Agreement, all necessary insurance for its employees engaged in the performance of this Agreement, including, but not limited to, Workers' Compensation insurance, and to provide the CITY with satisfactory evidence of such insurance coverage upon the CITY's request.

Failure on the part of the CONTRACTOR to procure or maintain required insurance shall constitute a material breach of this AGREEMENT upon which the CITY will immediately terminate this AGREEMENT.

K. NON-DISCRIMINATION. The CONTRACTOR agrees that no person shall be excluded from employment in the performance of this Agreement on the grounds of race, creed, color, sex, age, marital status, or place of national origin. In this connection, the CONTRACTOR agrees to comply with all County, State and Federal laws relating to equal employment opportunity rights.

L. SEVERABILITY. In the event that any covenant, condition or other provisions herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this AGREEMENT and shall in no way affect, impair or invalidate any other covenant, condition or other provision contained herein. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

M. INTERPRETATION. No provision of this AGREEMENT is to be interpreted for or against either party because that party or that party's legal

representative drafted such provision, but this AGREEMENT is to be construed as if both parties drafted it hereto.

N. ENTIRE AGREEMENT. This AGREEMENT supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the retention of CONTRACTOR by the CITY and contains all the covenants and agreements between the parties with respect to such retention.

O. WAIVER. No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision shall not be deemed to be a waiver of any other breach of the same or any other provision hereof.

P. TERMINATION OF AGREEMENT. This AGREEMENT may be terminated at the sole discretion of either party by giving written notice at least thirty (30) days prior to the effective termination date in the written notice. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the CONTRACTOR under this AGREEMENT shall, at the option of the CITY, become its property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the AGREEMENT by the CONTRACTOR, and the CITY may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the CITY from the CONTRACTOR is determined.

Q. CHANGES. The CITY or CONTRACTOR may request changes in the scope of the services of the CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONTRACTOR'S compensation, which are mutually agreed upon by and between the CITY and the CONTRACTOR, shall be incorporated in written amendments to this AGREEMENT.

R. COMPLIANCE WITH LAWS. The parties agree to be bound by applicable federal, state and local laws, regulations and directives as they pertain to the performance of this AGREEMENT.

S. PROPOSAL. EXHIBIT A and EXHIBIT B, as well as any and all addenda or additions mutually agreed upon in writing by both parties herein, are incorporated by reference to this AGREEMENT.

III. NOTICES

Notices herein shall be presented in person or by certified or registered U.S. Mail, as follows:

To the CONTRACTOR:

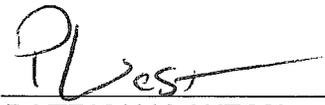
Deputy Director
Administrative Services Division
Office of Environmental Health Hazard
Assessment
1001 I Street
P.O. Box 4010, MS 19B
Sacramento, CA 95812-4010

To the CITY:

City Manager
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

IN WITNESS HEREOF, the CITY and CONTRACTOR have executed this AGREEMENT as of the date first herein above set forth.

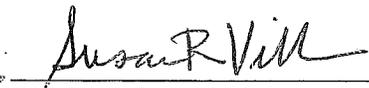
CITY OF LONG BEACH



PATRICK H. WEST
City Manager

Date: 8/15/18

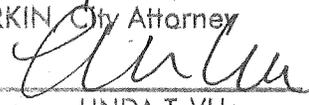
STATE OF CALIFORNIA



SUSAN R. VILLA
Deputy Director, Administrative
Services Division

Date: 9-5-18

APPROVED AS TO FORM

8/9, 2018
CHARLES PARKIN, City Attorney
By 

LINDA T. VU
DEPUTY CITY ATTORNEY

EXHIBIT A STATEMENT OF WORK

1. The Office of Environmental Health Hazard Assessment (hereinafter referred to as "OEHHA") hereby enters into an agreement with the CITY to review the assessment of human health and/or environmental risks at various locations under the oversight of the CITY.
2. The Project Representatives during the term of this Agreement will be:

| | |
|--------------------------------------------------|-------------------------------------------------------------------------|
| City of Long Beach | Office of Environmental Health Hazard Assessment |
| Attention: Nelson Kerr | Attention: Carmen Milanes |
| Address: 2525 Grand Ave. Long Beach, CA 90815 | Address: 1001 I Street P.O. Box 4010, MS 12B Sacramento, CA 95812 |
| Phone: (562) 570-4170 | Phone: (916) 323-4153 |
| E-Mail: Nelson.Kerr@longbeach.gov | E-Mail: carmen.milanes@oehha.ca.gov |

The parties may change their respective Project Representative upon providing ten (10) days written notice to the other party.

3. The Project Administrative Contacts during the term of this Agreement will be:

| | |
|--------------------------------------------------|-------------------------------------------------------------------------|
| City of Long Beach | Office of Environmental Health Hazard Assessment |
| Attention: Nelson Kerr | Attention: Carolyn Flowers |
| Address: 2525 Grand Ave. Long Beach, CA 90815 | Address: 1001 I Street P.O. Box 4010, MS 12B Sacramento, CA 95812 |
| Phone: (562) 570-4170 | Phone: (916) 324-3732 |
| E-Mail: Nelson.Kerr@longbeach.gov | E-Mail: carolyn.flowers@oehha.ca.gov |

The Project Administrative Contacts are responsible for executing tasks as outlined in the "Work to be Performed". All inquiries regarding work to be performed should be directed to the Project Administrative Contacts.

4. The Contract Representatives during the term of this agreement will be:

| | |
|---------------------|--------------------------------------------------|
| City of Long Beach | Office of Environmental Health Hazard Assessment |
| Attention: Carl Vos | Attention: Cynthia Soto |

| | |
|----------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Address: 2525 Grand Ave. Long Beach, CA 90815 | Address: 1001 I Street P.O. Box 4010, MS 12B Sacramento, CA 95812 |
| Phone: (562) 570-4092 | Phone: (916) 324-6440 |
| E-Mail: Carl.Vos@longbeach.gov | E-Mail: cynthia.soto@oehha.ca.gov |

B. WORK TO BE PERFORMED

1. It is the responsibility of the CITY to:
 - a. Provide a written work request to OEHHA containing:
 - 1) Description of the site, name/title, location/street address.
 - 2) Site project number, if applicable.
 - 3) Description of the type of review services requested including travel, conference calls, and meeting attendance, as needed.
 - 4) Work timetable and/or requested completion date.
 - 5) The name, title, telephone number, e-mail address and mailing address of the CITY Project Manager.
 - 6) A listing of documents to be reviewed together with the documents themselves. All documents submitted to OEHHA will be accompanied by a work request.
 - b. Submit a work request to the OEHHA Project Administrative Contact for each site and/or document for program assignment and cost estimation.
 - c. Compensate OEHHA in accordance with the OEHHA Air, Community, and Environmental Research Branch Schedule of Hourly Rates (EXHIBIT B) for work request estimates, work performed and necessary travel expenses and per diem.
2. As specified in the work request submitted by the CITY Project Representative, it is the responsibility of OEHHA to perform the following services when requested:
 - a. Assist the CITY staff in planning and coordinating meetings with responsible parties (RP) and/or their consultants. Provide information necessary to develop risk assessments for specific cleanup sites as listed in the work request.
 - b. When requested by the CITY Project Representative, inspect contaminated sites in order to evaluate the appropriateness of the proposed conceptual site model and/or other aspects of the risk assessment.
 - c. Review risk assessments submitted, under cover of a work request, to OEHHA by the CITY Project Representative. OEHHA shall review, evaluate and make written recommendations for revisions to the assessment as submitted to the CITY project manager. In the event of subsequent revisions, OEHHA shall review and evaluate any

- such revisions to provide additional recommendations of the overall assessment documents by the mutually agreed upon completion date stated on the work request.
- d. Provide consultation services to CITY staff and Responsible Party (RP) and/or consultants on issues concerning human health and/or environmental risks.
 - e. When requested, provide expert testimony on and concerning OEHHA's review and consultation on behalf of the CITY at council hearings and courtroom proceedings. Such expert testimony shall be available during the executed term of this agreement.
 - f. Provide general human health and/or environmental risk assistance and training when specified on a work request.
 - g. OEHHA shall send a memorandum providing comment and recommendations to the CITY upon completion of the work and within the time frame as specified in the work request.
 - h. Record all time and activities spent on the project and provide these records to CITY upon their request.
 - i. Prepare invoice(s) to include contract number 18-E0016 work request and/or site reference number, a brief description of work performed, number of hours and costs by position and travel and per diem if applicable. Invoices shall be submitted, in duplicate, nor more frequently than monthly in arrears to:

*Long Beach Department of Health and Human Services
Attention: Nelson Kerr
2525 Grand Ave.
Long Beach, CA 90815*