



1 these services; provided, however, that access to City documents, records and the  
2 like, if needed by Consultant, shall be available only during City's normal business  
3 hours and provided that milestones for performance, if any, are met.

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

18 D. Consultant represents that Consultant has obtained all  
19 necessary information on conditions and circumstances that may affect its  
20 performance and has conducted site visits, if necessary.

21 E. City shall furnish to Consultant the applicable information and  
22 technical data in City's possession or control reasonably required for the proper  
23 performance of the Services. Consultant shall be entitled to reasonably rely upon  
24 the information and data provided by City or obtained from generally accepted  
25 sources within the industry without independent verification except and to the  
26 extent Consultant knows or in the exercise of reasonable care should know the  
27 document or information is inaccurate or incomplete

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 October 1, 2010, and shall terminate at 11:59 p.m. on September 30, 2011, unless  
5 sooner terminated as provided in this Agreement, or unless the services or the Project is  
6 completed sooner.

7 3. COORDINATION AND ORGANIZATION.

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

16 B. The parties acknowledge that a substantial inducement to City  
17 for entering this Agreement was and is the reputation and skill of Consultant's key  
18 employee, Ganesh Krishnamurthy. City shall have the right to approve any person  
19 proposed by Consultant to replace that key employee.

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

1 and Consultant is not entitled to any of the usual and customary rights, benefits or  
2 privileges of City employees. Consultant expressly warrants that neither Consultant nor  
3 any of Consultant's employees or agents shall represent themselves to be employees or  
4 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  
11 Section 1763 of the California Insurance Code and that have ratings of or  
12 equivalent to A:VIII by A.M. Best Company, the following insurance:

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

28 (b) Workers' Compensation insurance as required by the California

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

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

7 (d) Commercial automobile liability insurance (equivalent in scope  
8 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an  
9 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  
16 coverage shall not be reduced, non-renewed or canceled except after thirty (30)  
17 days prior written notice to City, shall be primary and not contributing to any other  
18 insurance or self-insurance maintained by City, and shall be endorsed to state that  
19 coverage maintained by City shall be excess to and shall not contribute to  
20 insurance or self-insurance maintained by Consultant. Consultant shall notify City  
21 in writing within five (5) days after any insurance has been voided by the insurer or  
22 cancelled by the 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  
27 uninterrupted, continuing coverage for a period of not less than three (3) years,  
28 commencing on the date this Agreement expires or is terminated.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

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

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

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

6. ASSIGNMENT AND SUBCONTRACTING. This Agreement contemplates the personal services of Consultant and Consultant's employees, and the parties acknowledge that a substantial inducement to City for entering this Agreement was and is the professional reputation and competence of Consultant and Consultant's employees. Consultant shall not assign its rights or delegate its duties under this

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

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

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

21           9. OWNERSHIP OF DATA. All materials, information and data  
22 prepared, developed or assembled by Consultant or furnished to Consultant in  
23 connection with this Agreement, including but not limited to documents, estimates,  
24 calculations, studies, maps, graphs, charts, computer disks, computer source  
25 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
26 information, material and memorandum ("Data") shall be the exclusive property of City.  
27 Data shall be given to City, and City shall have the unrestricted right to use and disclose  
28 the Data in any manner and for any purpose without payment of further compensation to

1 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that  
2 Data shall not be made available to any person or entity for use without the prior approval  
3 of City. This warranty shall survive termination of this Agreement for five (5) years.

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

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

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

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

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

///

1                   17.    INDEMNITY.

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

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

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

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

1 termination of this Agreement.

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

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

7 20. NONDISCRIMINATION.

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

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

1           637).

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

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

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

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

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

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

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

1 Responsibility.

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

10 23. COPYRIGHTS AND PATENT RIGHTS.

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

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

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

24 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
25 that Consultant has not employed or retained any entity or person to solicit or obtain this  
26 Agreement and that Consultant has not paid or agreed to pay any entity or person any  
27 fee, commission or other monies based on or from the award of this Agreement. If  
28 Consultant breaches this warranty, City shall have the right to terminate this Agreement

1 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct  
2 from payments due under this Agreement or otherwise recover the full amount of the fee,  
3 commission or other monies.

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

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

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

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

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

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

1 entity of any kind that is not a party to this Agreement.

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

4 MWH AMERICAS, INC., a California  
5 corporation

6 \_\_\_\_\_, 2010

By *John Robinson*  
7 Vice President  
8 John Robinson  
9 Type or Print Name

10 \_\_\_\_\_, 2010

By *Richard Plecker*  
11 Secretary Vice President  
12 Richard Plecker  
13 Type or Print Name

14 "Consultant"

15 CITY OF LONG BEACH, a municipal  
16 corporation

17 12/17, 2010

By *G. H. West*  
18 City Manager

19 "City"

20 This Agreement is approved as to form on 11/22, 2010.

21 ROBERT E. SHANNON, City Attorney

22 By *[Signature]*  
23 Deputy

24 OFFICE OF THE CITY ATTORNEY  
25 ROBERT E. SHANNON, City Attorney  
26 333 West Ocean Boulevard, 11th Floor  
27 Long Beach, CA 90802-4664

# EXHIBIT “A”

## Scope of Work





**MWH**

**BUILDING A BETTER WORLD**

September 8, 2010

City of Long Beach  
Public Works Department  
333 West Ocean Boulevard  
Long Beach, CA 90802

Attention: Mr. Mark Christoffels  
City Engineer

Subject: Proposal for Update 2011 California Multi-Agency Benchmarking Study

Dear Mr. Christoffels:

MWH is pleased to submit this Proposal to continue assisting the City of Long Beach as the lead agency in the California Multi-Agency Benchmarking Study for Update 2011. The Proposal consists of the scope of work for the Study and a breakdown of the Study fee by task. As suggested during Meeting # 3 of Update 2010 and approved by the agencies during Meeting # 4, the number of meetings has been reduced to two.

This Proposal assumes that the contract terms from the Update 2010 Study will apply to the Update 2011 Study. A copy of the Update 2010 contract with minor changes (such as beginning and end dates etc.) is attached to this proposal.

Joe Wojslaw has been involved with the Study since its inception and will serve as the Principal-in-Charge. He will be assisted by Ganesh Krishnamurthy who has been involved with the Study since 2008. MWH thanks the City for this opportunity to continue assisting the City on this Study and looks forward to working with the City during these challenging times.

If you have any questions on the content of this proposal, please contact Joe Wojslaw at 626-568-6194 or Ganesh Krishnamurthy at 626-568-6170.

Sincerely,  
MWH Americas, Inc.

Richard Plecker  
Southwest Regional Manager

Joseph Wojslaw  
Principal-in-Charge  
Vice-President

618 Michillinda Ave.  
Suite 200  
Arcadia, CA 91007

TEL 626 796 9141  
FAX 626 568 6101  
www.mwhglobal.com

**EXHIBIT B**

**SCOPE OF SERVICES**

**Background**

The “Project Team” consists of the City of Long Beach and the other participating agencies. The “Study Team” consists of the City of Long Beach, MWH, and MWH’s subconsultants. The “Consultant Team” consists of CONSULTANT and its subconsultants.

The California Multi-Agency CIP Benchmarking Study (Study) was first published by the Project Team in 2002. Each year since then, an “Update” to the original Study has been produced. This scope of services pertains to the activities associated with producing the Update 2011 Study Report.

The Update consists of the following tasks: Study planning, two Project Team meetings, information management, and annual report production. The Update 2011 Study will begin in October 2010 and end in September 2011.

The Project Team meetings are hosted by the participating agencies on a rotating basis. These are the planned dates and locations of the Update 2011 Project Team meetings:

- Meeting #1 March 25<sup>th</sup>, 2011 Oakland
- Meeting #2 July 22<sup>nd</sup>, 2011 Long Beach

This table summarizes the planned activities for the Update 2011 Study cycle.

<b>Study Events</b>	<b>Date</b>	<b>Tasks</b>
Study Planning	Oct, 2010	<ul style="list-style-type: none"><li>▪ Study Team to develop Update 2011 goals for Agency approval</li><li>▪ Study Team to develop guidelines for project data submission</li></ul>
Meeting # 1	Mar 2011	<ul style="list-style-type: none"><li>▪ Review preliminary data analyses</li><li>▪ Agencies report on implementation of BMPs</li><li>▪ Agencies develop new BMPs</li><li>▪ Roundtable discussions on project delivery</li></ul>
Draft Report Outline	May, 2011	<ul style="list-style-type: none"><li>▪ Study Team to develop an outline for Update 2011 Report for Agency approval</li></ul>
Meeting # 2	Jul, 2011	<ul style="list-style-type: none"><li>▪ Review draft report</li><li>▪ Plan final report</li><li>▪ Roundtable discussions on project delivery</li><li>▪ Update 2012 Planning</li></ul>
Final Report	Sep, 2011	<ul style="list-style-type: none"><li>▪ Consultant Team publishes Update 2011 Report</li></ul>

Information to be managed over the course of the Study consists of:

- the status of BMP implementation by the participating agencies
- Project Team member contact information and email distribution lists
- documenting Online Discussion Forum exchanges

- project delivery cost data analyses
- documentation for electronic applications used in data collection and analyses
- changes to agency information in the annual Study report
- documentation of minutes during the two Project Team meetings

Customized electronic applications were created by another consultant for this Study and have been maintained and modified by CONSULTANT starting with Update 2005. These applications are: a Performance Questionnaire (MS Excel 2003 with macros) for the agencies to provide project delivery cost data, a Performance Data spreadsheet (MS Excel 2003 with macros) used to transfer data from submitted Performance Questionnaires into a data table, and a customized database (MS Access 2003) used to store and provide analytical tools for the project delivery cost data.

CONSULTANT has created technical documentation describing the function of the electronic applications, how to make basic changes to their designs, and how to address common technical problems. CONSULTANT also maintains a readme document for database users and reference library files required for database users to have on their computers in order to use the database.

The services required to complete Update 2011 are described below.

### **Scope of Services**

CONSULTANT will perform the following services relating to the Study Update 2011 under this AGREEMENT:

#### **Task 1 Project Management**

- **Procedures:** CONSULTANT will employ its global project management procedures, called the "Project Delivery System", to guide delivery of tasks in this Scope of Services. The purpose of the Project Delivery System is to facilitate consistent application of standards to all project inputs and outputs. This framework sets forth requirements during each phase of project delivery, from setup through closeout.
- **Regular Activities:** CONSULTANT will plan, monitor, and control project financial performance, scope performance, quality performance, schedule performance, resource allocation/utilization, and subconsultant activities.

#### **Task 2 Meetings**

- **Study Team Meetings:** CONSULTANT will participate in one Study Team meeting for conceptual planning and document review prior to each of the two Project Team meetings. This consists of:
  - planning, coordinating, and conducting one Consultant Team meeting prior to each Study Team meeting (for a total of two Consultant Team meetings);
  - planning the purpose and theme of each of the two meetings as embodied in the meeting agenda and meeting documents ("Meeting Book");
  - preparing draft documents ("Meeting Book") for each Study Team meeting (for a total of two draft Meeting Books);
  - planning, coordinating, and attending each Study Team meeting (for a total of two Study Team meetings);
  - collecting comments from the Study Team on the Meeting Books; and
  - completing action items as directed by the City of Long Beach's City Engineer following each Study Team meeting.

It is assumed that CONSULTANT will spend a total of 2 hours following each Study Team meeting completing action items.

- **Project Team Meetings:** The agency hosting a Project Team meeting is responsible for the following items:
  - preparing and distributing meeting invitations to participants;
  - collecting confirmations of attendance from participants;
  - coordinating food and facility needs;
  - reproducing and binding Meeting Books;
  - reproducing name badges and reproducing tent name cards for attendees; and
  - transporting shipped meeting supplies to the meeting location.

CONSULTANT will finalize Meeting Books for and attend each of the two Project Team meetings. This consists of:

- compiling and emailing an electronic file of the Meeting Book (Adobe Portable Document Format [PDF]) to the hosting agency for reproduction;
  - emailing the Project Team Contact List (MS Excel 2007) and example invitation to the hosting agency for sending meeting invitations;
  - emailing a Workshop Checklist (PDF) to the host for determining facility and meeting needs;
  - preparing and shipping meeting supplies;
  - answering questions from and sending information to the hosting agency;
  - attending the Project Team meeting;
  - providing support to the meeting facilitator; and
  - taking meeting notes.
- **Action Items:** CONSULTANT shall complete action items identified during each of the two Project Team meetings. These consist of:
    - preparing draft meeting notes for Study Team review;
    - collecting and incorporating comments from the Study Team;
    - distributing final meeting notes to the Project Team; and
    - completing action items agreed upon during the meeting.
 It is assumed that CONSULTANT will spend a total of 4 hours per Project Team meeting completing action items.

### Task 3 Information Management

- **BMP Implementation:** Project Team BMP implementation status is tracked in an MS Excel 2007 spreadsheet. After Meeting #1, CONSULTANT will add BMPs adopted by Project Team to the spreadsheet, distribute the spreadsheet to the agencies for comment and discussion, and collect and incorporate comments into the spreadsheet and draft report.
- **Project Team Contact List:** Project Team and Study Team member contact information is summarized in a MS Excel 2007 spreadsheet. This spreadsheet is used to track requests and the status of receipt of requested information from the Project Team; to track the distribution of information to the Project Team; as a sign-in list at the Project Team meetings; and as a basis for preparing an email distribution list for relaying action items to the Project Team. CONSULTANT will maintain this document. This consists of:
  - revising, distributing, collecting and incorporating corrections to the Project Team Contact List following each Project Team Meeting; and
  - distributing updated lists to the Project Team via email in an Adobe PDF file as revisions are made.
- **Online Discussion Forum:** CONSULTANT will develop a summary of discussions agreed upon by the Project Team and incorporate them into the Update 2011 report (see Task 4 Report Preparation). The report will form the archive of the Discussion Forum exchanges. These discussions will also be summarized and presented at the Project Team Meetings.

- **Project Delivery Cost Data:**
  - CONSULTANT will modify, test, and distribute the Performance Questionnaire to the Project Team prior to Meeting #1 based on minor modifications identified during Meeting # 4 of the Update 2010 Study. For example, one previously-identified minor modification is that the “Project Financial Elements Closed and Complete” checkbox will be removed.
  - CONSULTANT will respond to questions posed by Project Team members regarding the use of the Performance Questionnaire.
  - CONSULTANT will collect completed Performance Questionnaires; transfer data into project data table; and vet data for completeness, entering 0 or dummy values for required fields that the submitting agency left blank.
  - No changes will be made to data by the Project Team following submission.
  - It is assumed that CONSULTANT will spend a total of 20 hours on this effort.
  
- **Electronic Applications:** Modifying one application will require modifications to all electronic applications.
  - CONSULTANT will maintain existing customized applications used to support the Study data analyses.
  - CONSULTANT will make minimal modifications to said applications to support continued function in Update 2011.
  - CONSULTANT will define detailed technical requirements for modifications and test all applications for compatibility.
  - It is assumed that modifications will be of minor nature and limited. An example of a minor modification is adding a checkbox to the Performance Questionnaire for users to indicate whether or not a project had LEED certification.
  - It is assumed that CONSULTANT will spend no more than a total of 16 hours on modifications.
  
- **Documentation for Electronic Applications:** CONSULTANT will update technical documentation and user readme document to reflect changes made during the Study. In the technical document, CONSULTANT will describe detailed requirements and function of changes, describe how to implement other similar changes, and describe solutions to common technical problems when using the electronic applications. The user readme document will provide basic instructions for the database function.
  
- **Outlier Analysis:** CONSULTANT will:
  - evaluate the entire dataset for statistical outliers by the 16 Project Classifications;
  - calculate median (m) and standard deviation (d) of project delivery cost (y) for each set of projects by Project Classification;
  - identify projects that fall outside of the range of  $y = s \pm 3*d$  as statistical outliers;
  - retain outliers in the database but exclude them from the Update 2011 analysis; and
  - mark statistical outliers with a “Yes” in the “Outliers” field of the projects data table in the database.
  
- **Project Delivery Cost Data Analysis:** Data analysis for the Study will be based on the following criteria: projects completed between 1/1/2006 and 12/31/2010, delivered by the traditional design-bid-build method, total construction cost greater than \$100,000, and projects assigned to one existing Project Classification. Changes to the Study criteria will result in an increased effort and fee to implement the activities described above. CONSULTANT will:
  - analyze performance benchmarking data from the Project Team for design cost versus total construction cost, construction management cost versus total construction cost, and project delivery cost versus total construction cost;

- analyze performance benchmarking data for two ranges of total construction cost (TCC) data: a) full range of TCC and b) 80 percent range of TCC. For example, if a dataset contains 1,000 project data points having a TCC ranging from \$100,000 to \$10 Million, then as per (a) this range of TCC would reflect the full range of TCC for statistical evaluation. If 80 percent of the total projects (800 project data points) have a TCC ranging from \$100,000 to \$1 Million, then as per (b) this range of TCC would reflect the 80 percent range of TCC for statistical evaluation; create these three types of regression models for each of the 4 Project Types and 16 Project Classifications used in the Study;
  - provide project delivery percentages for the four project types for projects have a TCC ranging from \$100,000 to \$500,000.
  - display the R<sup>2</sup> (coefficient of determination) value., and N (count of projects) on the curve (display of other values on curves (e.g., p values) is specifically excluded from this effort);
  - create curves using a linear trendline;
  - conduct analysis and prepare a separate table for later report inclusion that lists: p-value, R<sup>2</sup> Value, and descriptive characteristics of the selected regression model (e.g., y-intercept (b) and slope of regression line (m) for linear trendlines);
  - present the results of such analyses in draft form to the Project Team for review and comment at Meeting # 1; and
  - revise analyses once for publication in the final Study Update report.
  - The consultant will also collect projects delivered by alternative delivery methods such as design-build, job-order-contracting, and CM@Risk. These projects will be added to the projects database and will be analyzed only if sufficient number (greater than 10 projects) of such projects are available for meaningful analyses.
- **Miscellaneous Corrections and Requests:** CONSULTANT will make minor corrections and requests throughout the Study year as requested by the Project Team. An example of a minor correction is to revise the agency design cost for a project in the project data table. An example of a minor request is to provide an agency with their project delivery cost data in the database. It is assumed that CONSULTANT will spend a total of 16 hours on these corrections and requests.

#### Task 4 Report Preparation

- **Outline:** CONSULTANT will prepare Study Update report outline for Project Team review and comment prior to Meeting # 2. CONSULTANT will collect and incorporate comments from the Project Team.
- **Draft Report:** CONSULTANT will distribute, collect, and incorporate updates from Project Team on the Benefits of Participation, Agencies' Overall Information Table, and Agencies' Indirect Rates table into the draft report. CONSULTANT will divide assignments for writing among the members of the Consultant Team. The Study Update 2011 Report is assumed to be similar in length and content to Update 2010 report. CONSULTANT will draft the annual report for Update 2011, which will consist of the following sections:
  - Executive Summary
  - Table of Contents
  - Introduction
  - Performance Benchmarking
  - Best Management Practices
  - Online Discussion Forum
  - Conclusions
  - Appendix A Performance Questionnaire
  - Appendix B Performance Curves

– Appendix C Indirect Rates

CONSULTANT will provide a complete Draft Report to Consultant Team for review, and collect and incorporate comments from the Consultant Team members. CONSULTANT will provide complete Draft Report to Study Team for review, and collect and incorporate comments from Study Team members. CONSULTANT will provide a complete Draft Report to Project Team for review and comment during Meeting #2.

- **Final Report:** CONSULTANT will incorporate comments from the Project Team into the Final Report. CONSULTANT will provide the Final Report to the Study Team for review, and collect and incorporate comments. CONSULTANT will prepare layout of Final Report in electronic (InDesign) format for posting on the internet. CONSULTANT will make the layout using InDesign project files for Update 2011 report. CONSULTANT will provide layout of Final Report to Study Team for review, and collect and incorporate comments. CONSULTANT will deliver the Final Report in Adobe PDF format suitable for posting on the internet and a high-resolution Adobe PDF suitable for printing. It is assumed that the electronic and printed reports will be similar in look and length to the Update 2010 report.
- **Report Distribution:** CONSULTANT will provide a low-resolution Adobe PDF suitable for posting on the internet. Study reports are currently posted on the City of Los Angeles' website at <http://eng.lacity.org/techdocs/cabm/>. CONSULTANT will email the Project Team to notify them when the report is posted on internet. CONSULTANT will provide each participating agency with 3 hard copies of the report. CONSULTANT will make the high-resolution PDF suitable for printing available to Project Team members who request it in order to print their own copies of the report.
- **Database Distribution:** CONSULTANT will upload the Update 2011 database on the Study website currently maintained by MWH. The database will contain the necessary reference library files required for correct function of the database, and a user readme file to explain database functions.

## Task 5: Online Discussion Forum

### Background:

The Study uses a web-based collaboration (QuickPlace) tool that allows the Study Team and the Project Team to manage, share, collect, and search information related to the Study. The QuickPlace developed as part of Update 2009 will be replaced with a MS SharePoint site at the start of the Update 2011 cycle. The SharePoint website will provide the same features to the Study participants as the QuickPlace tool. The CONSULTANT will provide logon information to the Study participants and a User's Guide on the SharePoint website. It is assumed that the User's Guide will be similar to the User's Guide developed for the QuickPlace as part of Update 2009.

- **Maintenance:** CONSULTANT will perform routine maintenance on the site. This subtask is budgeted assuming 2 hours per month of maintenance activities. No improvements or changes to the structure of the site are budgeted. Maintenance consists of:
  - addressing user questions and issues,
  - monitoring and controlling site activity,
  - posting documents,
  - reclassifying Online Discussion Forum topics or other documents posted by the Project Team,
  - periodically archiving the site and files, and
  - managing user accounts.

# EXHIBIT “B”

Rates or Charges



Task	Update 2009	Update 2010	Update 2011
<b>Task 1 Project Management</b>	<b>\$11,200</b>	<b>\$11,200</b>	<b>\$9,400</b>
Setup Monitoring and Control Closeout			
<b>Task 2 Project Team Meetings</b>	<b>\$56,000</b>	<b>\$55,000</b>	<b>\$30,000</b>
Planning Update 2011 Consultant Team Meeting, Meeting Book, Study Team Meeting (x4) Coordinating and Attend Project Team Meeting (x4)			
<b>Task 3 Information Management</b>	<b>\$46,200</b>	<b>\$42,300</b>	<b>\$42,300</b>
BMP Implementation Project Team Contact List Email Distribution List Online Discussion Forum Collect Project Delivery Cost Data Electronic Applications Documentation for Electronic Applications Outlier Analysis Analyze Project Delivery Cost Data Special Studies Misc Corrections Misc Requests			
<b>Task 4 Report</b>	<b>\$34,300</b>	<b>\$34,300</b>	<b>\$34,300</b>
Report Outline Executive Summary Table of Contents Introduction Performance Benchmarking Best Management Practices Online Discussion Forum Conclusions Appendix A Performance Questionnaire Appendix B Performance Curves Appendix C Indirect Rates Collect comments and revise report Final Report Production Report Distribution Database Distribution			
<b>Task 5 Website</b>	<b>\$6,300</b>	<b>\$3,200</b>	<b>\$6,500</b>
Setup, Population, and Launch Maintenance			
<b>Total</b>	<b>\$154,000<sup>(1)</sup></b>	<b>\$146,000<sup>(2)</sup></b>	<b>\$122,500<sup>(3)</sup></b>

**Fee:** Payable on a lump sum basis calculated as progress on tasks listed above.

Note:

- (1) Fee remains unchanged from Update 2008
- (2) Fee reduced by five percent from Update 2009.
- (3) Fee reduced by 16 percent due to a reduction in the number of Project Team meetings.

# EXHIBIT “C”

City’s Representative:

Mark Christoffels

# EXHIBIT “D”

Materials/Information Furnished: None