

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; provided that if City provides to Consultant
7 a notice indicating that necessary funds have been appropriated ("Appropriation
8 Notice"), City shall be obligated to make payment in accordance with the terms of
9 this Agreement.

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

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

28 E. Consultant represents that Consultant has obtained all

1 necessary information on conditions and circumstances that may affect its
2 performance and has conducted site visits, if necessary.

3 F. CAUTION: Consultant shall not begin work until this
4 Agreement has been signed by both parties, Consultant's evidence of insurance
5 has been delivered to and approved by City, and Consultant has received the
6 Appropriation Notice.

7 2. TERM. The term of this Agreement shall commence at midnight on
8 March 29, 2019, and shall terminate at 11:59 p.m. on December 31, 2021, unless sooner
9 terminated as provided in this Agreement, or unless the services or the Project is
10 completed sooner.

11 3. COORDINATION AND ORGANIZATION.

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

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

25 4. INDEPENDENT CONTRACTOR. In performing its services,
26 Consultant is and shall act as an independent contractor and not an employee,
27 representative or agent of City. Consultant shall have control of Consultant's work and the
28 manner in which it is performed. Consultant shall be free to contract for similar services to

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Lana Beach, CA 90802-4664

1 be performed for others during this Agreement; provided, however, that Consultant acts in
2 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
3 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;
4 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
5 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of
6 the usual and customary rights, benefits or privileges of City employees. Consultant
7 expressly warrants that neither Consultant nor any of Consultant's employees or agents
8 shall represent themselves to be employees or agents of City.

9 5. INSURANCE.

10 A. As a condition precedent to the effectiveness of this
11 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
12 duration of this Agreement, from insurance companies that are admitted to write
13 insurance in California and have ratings of or equivalent to A:V by A.M. Best
14 Company or from authorized non-admitted insurance companies subject to Section
15 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
16 by A.M. Best Company, the following insurance:

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

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employees and agents. 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.

ii. Workers' Compensation insurance as required by the California Labor Code and employer's liability insurance in an amount not less than \$1,000,000. 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 \$1,000,000 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 \$500,000 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 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)

1 days, commencing on the date this Agreement expires or is terminated, unless
2 Consultant guarantees that Consultant will provide to City evidence of uninterrupted,
3 continuing coverage for a period of not less than three (3) years, commencing on
4 the date this Agreement expires or is terminated.

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

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

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

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

27 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
28 contemplates the personal services of Consultant and Consultant's employees, and the

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

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

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

28 9. OWNERSHIP OF DATA. All materials, information and data (i)

1 prepared, developed or assembled by Consultant specifically and uniquely for City
2 pursuant to this Agreement and for which Consultant has been compensated by City in
3 accordance herewith, or (ii) furnished to Consultant by City and marked as "confidential" in
4 connection with this Agreement, including but not limited to documents, estimates,
5 calculations, studies, maps, graphs, charts, computer disks, computer source
6 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,
7 information, material and memorandum ("Data") shall be the exclusive property of City.
8 Data shall be given to City, and City shall have the unrestricted right to use and disclose
9 the Data in any manner and for any purpose without payment of further compensation to
10 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that
11 Data shall not be made available to any person or entity for use without the prior approval
12 of City. This warranty shall survive termination of this Agreement for five (5) years.

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

23 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
24 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
25 performing its services, during the term of this Agreement and for five (5) years following
26 expiration or termination of this Agreement. Consultant shall not disclose any or all of the
27 Data to any third party, or use it for Consultant's own benefit or the benefit of others except
28 for the purpose of this Agreement.

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

7 13. ADDITIONAL COSTS AND REDESIGN.

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

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

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

26 15. LAW. This Agreement shall be construed in accordance with the laws
27 of the State of California, and the venue for any legal actions brought by any party with
28 respect to this Agreement shall be the County of Los Angeles, State of California for state

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1 actions and the Central District of California for any federal actions. Consultant shall cause
2 all work performed in connection with construction of the Project to be performed in
3 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,
4 county or municipal governments or agencies (including, without limitation, all applicable
5 federal and state labor standards, including the prevailing wage provisions of sections 1770
6 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire
7 marshal, health officer, building inspector, or other officer of every governmental agency
8 now having or hereafter acquiring jurisdiction.

9 16. PREVAILING WAGES.

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

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

27 C. City acknowledges that the Project, as designed and
28 implemented by Consultant and City, respectively, will result in contractual

1 arrangements between program participants and contractors which may constitute
2 “public work” as defined in California Labor Code Section 1720 and/or otherwise be
3 subject to the application of the prevailing wage laws, and Consultant shall have no
4 liability hereunder resulting from the failure of such contracts and the work
5 performed thereunder to comply with prevailing wage laws.

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

9 18. INDEMNITY.

10 A. Consultant shall indemnify, protect and hold harmless City, its
11 Boards, Commissions, and their officials, employees and agents (“Indemnified
12 Parties”), from and against any and all liability, claims, demands, damage, loss,
13 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
14 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or
15 in connection with (1) Consultant’s breach or failure to comply with any of its
16 obligations contained in this Agreement, including any obligations arising from the
17 Project’s compliance with or failure to comply with applicable laws, including all
18 applicable federal and state labor requirements including, without limitation, the
19 requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful
20 acts, errors, omissions or misrepresentations committed by Consultant, its officers,
21 employees, agents, subcontractors, or anyone under Consultant’s control, in the
22 performance of work or services under this Agreement (collectively “Claims” or
23 individually “Claim”).

24 B. In addition to Consultant’s duty to indemnify, Consultant shall
25 have a separate and wholly independent duty to defend Indemnified Parties at
26 Consultant’s expense by legal counsel reasonably approved by City, from and
27 against all Claims, and shall continue this defense until the Claims are resolved,
28 whether by settlement, judgment or otherwise. No finding or judgment of

1 negligence, fault, breach, or the like on the part of Consultant shall be required for
2 the duty to defend to arise. City shall notify Consultant of any Claim, shall tender
3 the defense of the Claim to Consultant, and shall assist Consultant, as may be
4 reasonably requested, in the defense.

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

10 D. The provisions of this Section shall survive the expiration or
11 termination of this Agreement.

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

14 20. NONDISCRIMINATION.

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

25 B. It is the policy of City to encourage the participation of
26 Disadvantaged, Minority and Women-Owned Business Enterprises in City's
27 procurement process, and Consultant agrees to use its best efforts to carry out this
28 policy in its use of subconsultants and contractors to the fullest extent consistent

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

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

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

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

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

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

27 D. Failure to comply with the EBO may be used as evidence
28 against the Consultant in actions taken pursuant to the provisions of Long Beach

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Municipal Code 2.93 et seq., Contractor Responsibility.

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

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

23. COPYRIGHTS AND PATENT RIGHTS.

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

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

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

24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants

1 that Consultant has not employed or retained any entity or person to solicit or obtain this
2 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,
3 commission or other monies based on or from the award of this Agreement. If Consultant
4 breaches this warranty, City shall have the right to terminate this Agreement immediately
5 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
6 due under this Agreement or otherwise recover the full amount of the fee, commission or
7 other monies.

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

13 26. CONTINUATION. Termination or expiration of this Agreement shall
14 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
15 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

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

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

27 29. AUDIT. City shall have the right at all reasonable times during the
28 term of this Agreement and for a period of five (5) years after termination or expiration of

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1 this Agreement to examine, audit, inspect, review, extract information from and copy all
2 books, records, accounts and other documents of Consultant relating to this Agreement.

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

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

8
9
10 MARCH 18, 2019
11 By [Signature]
12 Name Lawrence Goldenhersh
13 Title President

14 3/15/19, 2019
15 By [Signature]
16 Name Justin McKee
17 Title Controller

Tom Modica
Assistant City Manager
EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

CENTER FOR SUSTAINABLE ENERGY, a
California corporation
By [Signature]
Name Lawrence Goldenhersh
Title President
By [Signature]
Name Justin McKee
Title Controller

“Consultant”
CITY OF LONG BEACH, a municipal
corporation
By [Signature]
City Manager

18 APRIL 5, 2019
19

“City”
This Agreement is approved as to form on April 1, 2019.

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22 CHARLES PARKIN, City Attorney
23 By [Signature]
24 Deputy

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EXHIBIT "A"

Scope of Work

Proposed Scope of Work and Budget

Scope of Work

Project Approach

CSE's primary goal for the proposed project is to design and deliver a Solar Water Heating Program (SWHP) for the City of Long Beach ("the City") that meets the requirements of Assembly Bill (AB) 797 (Irwin, 2017). To accomplish this goal, the project will focus on the following objectives:

- **Objective 1:** Design and launch a comprehensive SWHP for the City of Long Beach that meets both the requirements of AB 797 and the City's needs;
- **Objective 2:** Administer the day-to-day operations of the City of Long Beach SWHP, ensuring solar water heating (SWH) systems are installed to a high standard of quality, incentives for qualifying systems are paid in a timely manner, and program stakeholders receive exemplary customer service.

CSE has carefully considered the requirements of AB 797, as well as the services required by the City of Long Beach and potential constraints on program design and delivery. Our approach is designed to provide seamless, cost-effective service delivery to the City, ensuring compliance with AB 797 and ensuring that SWH installers and customers receive superior customer service. Additionally, our approach will ensure the program will operate self-sufficiently, requiring minimal involvement from City staff or resources, and minimal disruption to day-to-day City operations. Above all, our team provides unmatched experience in designing and administering SWH incentive programs in California, ensuring that the City's program will not only meet legislative requirements, but also deliver value to ratepayers.

The following sections describe, CSE's technical approach to the objectives listed above as well as key strategies and activities. The proposed work plan includes three major tasks: program design, program implementation and program administration.

Task 1: Program Design

Summary

CSE will design a Solar Water Heating Program (SWHP) that satisfies the requirements of AB 797 and provides incentives for qualifying SWH systems to the City's natural gas customers. Activities for this task will include determining technology and participant eligibility criteria, establishing overall program budget, incentive levels and individual incentive caps, and developing technical requirements for solar water heater installations and criteria for field inspections. Additionally, CSE will work with the City to establish dedicated customer service channels—such as a program email account and phone number—that forward to CSE program staff. Key deliverables resulting from these activities include a comprehensive Program Handbook, incentive application forms, and content for the City of Long Beach's website that describes the program to stakeholders.

CSE will work closely with the City of Long Beach to ensure that program design satisfies the requirements of AB 797 and is consistent with the statewide California Solar Initiative-Thermal Program (CSI-Thermal) while also being adapted to the City's specific needs. For example, the City may wish to adopt different incentive levels or incentive caps from those of the statewide CSI-Thermal Program to control total program cost.

Approach

Subtask 1.1: Determine program eligibility, requirements, and incentive levels

CSE will develop eligibility criteria for program participants and solar water heating technology, and will propose incentive levels and individual project caps, for approval by the City. CSE's methodology for developing incentive levels and eligibility criteria is as follows:

- **Review existing solar water heating incentive program eligibility requirements.** CSE envisions that the City of Long Beach SWHP will closely resemble that of the City of Palo Alto Utilities and the statewide CSI-Thermal Program. CSE will review the requirements of these programs and draw from a deep well of experience in administering these programs, to propose eligible SWH equipment, required industry certifications, end uses, and customer classes.
- **Analyze potential demand and propose incentive levels.** CSE will analyze participation data from the CSI-Thermal statewide program and CPAU's SWHP to forecast demand for incentives in the City's service territory. CSE will work with City staff to understand potential budgetary constraints and determine incentive levels that will effectively incentivize the installation of SWH systems while mitigating budgetary risk for the City.

Subtask 1.2: Develop program materials

CSE will develop program materials, including a Program Handbook, application forms, and content about the program for the City's website. The Program Handbook will serve as a comprehensive resource for program participants, detailing eligibility requirements for participants and technology, incentive levels and calculation methodology and the incentive application and field inspections processes. Additionally, CSE will create all necessary application forms, as well as draft content for a SWHP page to be hosted on the City's website. This page will contain information about the program, and will provide links to important program documents, such as the Program Handbook, a list of eligible contractors, and all application forms. To develop these materials, CSE will:

- **Review the structure and content of existing Program Handbooks for the CSI-Thermal Program and CPAU's SWHP.** CSE will review these program handbooks to inform structure and content for the City's SWHP Handbook. To the extent possible, structure and content will remain consistent with other program handbooks, for ease of use by solar water heating contractors who may participate in these other programs.
- **Provide draft materials for City of Long Beach to review.** CSE will provide draft deliverables to the City for review and will incorporate edits for finalization of program materials. To ensure

timely program launch, CSE envisions no more than two rounds of edits to draft program materials by the City.

- **Work with the City’s Marketing department to ensure appropriate branding.** CSE will work with the City’s Marketing team to ensure that all program materials conform with the City’s style guide and brand-building efforts. CSE is a trusted name with a strong reputation for effective program administration – the City will have the ability to choose whether program materials are co-branded with CSE, or if materials will carry only City of Long Beach branding.

Subtask 1.3: Establish customer service channels with the City

CSE will work with the City to establish customer service channels that allow for CSE Program staff to provide a seamless customer service experience to program participants. This process will include the following activities:

- **Establish customer service channels.** CSE will work with the City staff to establish dedicated customer service channels, including, but not limited to, an email account and phone line that forward to CSE program staff.
- **Standardize communication practices.** CSE will develop custom email signatures for email correspondence with program stakeholders and will work with the City to identify an internal point of contact for program questions and issues that require escalation.

Requirements of the City

To complete this task, CSE will require the following of the City:

- Review, provide feedback on and accept program design proposals.
- Provide branding materials and style guide for CSE’s Marketing Services team to create program materials.
- Establish email and/or phone numbers for CSE program staff to field customer inquiries.

Deliverables and Milestones

Following are proposed deliverables (D) and milestones (M) for Task 1:

- **D1.** Program Handbook detailing eligibility requirements for participating natural gas customers and solar water heating technologies, technical requirements for installations, and detailing the incentive application and field inspection processes.
- **D2.** Program forms, including, but not limited to, an Incentive Claim Form, Reservation Request Form, Project Cost Summary Form, and Contractor Application Form.
- **D3.** Program page hosted on the City’s website that provides program information and links to relevant documents.
- **D4.** Program email account and phone line that connect directly to CSE Program staff.
- **M1.** Proposed program requirements and incentive levels presented to City for review.

- **M2.** CSE and City agree on final program requirements and incentive levels.
- **M3.** Draft Handbook submitted to City for review.
- **M4.** Draft Program forms submitted to City for review.
- **M5.** Draft website content submitted to City for review.
- **M6.** Email account and phone lines established for CSE to provide customer service.
- **M7.** Final Handbook and Program forms made available on City's website.

Task 2: Program Implementation

Summary

Once program design is finalized, and program documents and forms are available on the City's website, CSE will administer the day-to-day operations of the City's SWHP. Activities for this task include responding to requests for information from program stakeholders, such as interested property owners and SWH system installers, processing incentive applications, conducting field inspections, and submitting final approved incentive applications to the City for payment.

CSE will require support from the City for completion of this task in the following areas:

- Verification of customer account information and access to natural gas usage data. This data will be used for the express purpose of verifying participant eligibility.
- Incentive payments – CSE will verify that incentive applications meet program requirements, will oversee field inspections and will submit final documentation to the City. The City will be responsible for making actual payments, typically in the form of a check, to incentive recipients.

To date, CSE has processed over 500 SWH incentive payments through the CSI-Thermal and CPAU SWH Programs. CSE will work closely with the City's staff to put in place the required processes and will leverage our eight years of experience working with Municipal and Investor-Owned Utilities to ensure that processes are streamlined, timely, and protect customer data confidentiality.

Approach

Subtask 2.1: Provide ongoing customer service

CSE will field program inquiries on an ongoing basis and provide timely customer service to ensure stakeholder satisfaction with the City's SWH Program. Inquiries typically involve clarifications on program requirements, incentive availability and levels and eligible technology. CSE will draw upon familiarity with program requirements and typical issues encountered by program stakeholders in the CSI-Thermal and CPAU SWH Programs to provide timely and effective customer service. Customer service activities will include:

- Responding to requests via phone and email.
- Escalating issues to City staff, as necessary, if an issue cannot be resolved by CSE's program staff.

Subtask 2.2: Process incentive applications

CSE will process incentive applications and submit final approved applications to the City for payment. CSE program staff will review applications to ensure that they meet all program requirements and will correspond with applicants to make any necessary corrections. Common issues encountered during application review include lack of required signatures on application forms and inadequate information in the customer purchase agreement for the SWH system but may also include applications with ineligible equipment or improperly sized systems.

Upon incentive application approval, CSE will coordinate field inspections (if required; Subtask 2.3) and submit approved applications to the City for payment. Application data will be stored locally on CSE servers, and application statuses will be tracked in a customized Microsoft Access database. Activities for this subtask include:

- Reviewing incentive application documents submitted to program staff for the following:
 - Participant eligibility.
 - SWH system component eligibility.
 - Appropriate system sizing based on estimated hot water demand.
 - Required information in the system owner purchase agreement – e.g. system components, detailed cost breakdown and assignment of the SWH incentive.
 - Appropriate freeze and overheat protection.
- Verifying customer account and energy usage information with City staff.
- Corresponding with program applicants to make corrections to submitted documents, as necessary.
- Coordinating the field inspection process, as required (Subtask 2.3).
- Submitting final approved incentive applications to the City for payment.

Similar to the CSI-Thermal and CPAU SWH Programs, CSE envisions a one-step incentive application process for single family projects, and a two-step process for larger multifamily and commercial projects. In the one-step process, applicants apply for their rebate once the system is installed and permitted by the local jurisdiction. For two-step applications, the applicant first submits a Reservation Request Form (RRF), with supporting documentation, to effectively reserve the incentive amount for an 18-month period while they install the system and complete the permitting process. This two-step reservation process provides project developers a degree of certainty around incentive availability for projects with longer development timelines.

The two-step reservation process means that the program will need to plan for a sunset period, during which the program is closed to new applications, but allows existing reservations to complete their installation and field inspection process and claim their incentive. CSE currently plans on an 18-month sunset period, however this may be shortened considerably if all projects with reservations proceed to incentive claim well before their 18-month due date.

Subtask 2.3: Perform field inspections on selected applications

CSE will be responsible for conducting field inspections on selected incentive applications to ensure that SWH systems are being installed to a high standard of quality and conform with program requirements. CSE will look to subcontract this work, similar to an existing arrangement with Burnham Inspection Services for the Los Angeles Department of Water and Power for their Solar Incentive Program. To control costs, inspections are typically only required on a subset of incentive applications—the first three incentive applications for a new installer, and a random sample of incentive applications from that point forward. The field inspection process will include the following activities:

- Scheduling field inspections with the system installer and system owner.
- Visiting the installation site and completing the Program’s field inspection checklist.
- Communicating inspection results to program applicants via email and detailing required modifications in the case of a failed inspection.
- Conducting follow-up inspections in the event of a failure, to confirm that required changes have been executed.

Requirements of the City

To complete this task, CSE will require the following of the City:

- Provide customer energy use data to CSE to verify program eligibility.
- Issue incentive payments to customers within 30 days of receipt of approved incentive claim package.
- Assist CSE in identifying a point of contact at the City of Long Beach Public Works to verify permits for solar thermal systems, as needed.

Deliverables and Milestones

Following are proposed deliverables (D) and milestones (M) for Task 2:

- **D1.** “Payment Packets” that include all required documentation for an approved incentive application, submitted to the City for payment.
- **D2.** Completed Field Inspection Reports for SWH installations requiring a field inspection.
- **D3.** Periodic updates on the number of SWH installations, total incentives paid, and estimated annual therm savings (see Task 3 for more detail on periodic reporting).
- **M1.** The City’s SWH Program is open and accepting applications.
- **M2.** Program closes to new incentive applications for one-step projects and reservation requests for two-step projects.
- **M3.** Final incentive claim is submitted during sunset period.

Task 3: Program Administration

Summary

From program kickoff to closeout, CSE will maintain open and active communication with the City, to ensure the City has input into program design as well as visibility into program operations. Throughout the life of the program, CSE will provide regular updates on program status as decided in the reporting schedule and will respond to *ad hoc* data requests from the City as they arise. Finally, CSE will host a program closeout meeting prior to the end date of the contract to ensure that all deliverables have been successfully achieved, and to determine a plan for closeout activities, including final invoicing and transfer of all program-related data.

CSE works with diverse project sponsors, from the US Department of Energy, to the California Air Resources Board, to Investor-Owned and Municipal Utilities and Community Choice Aggregators. CSE has extensive and flexible reporting capabilities that can meet specific client needs for communication, invoicing and status reporting.

Approach

Subtask 3.1: Program kickoff meeting

CSE will host a kickoff meeting with the City to determine program objectives and establish a program timeline, communications plan, and reporting and invoicing schedule. CSE staff will travel to the City's offices in Long Beach for the kickoff meeting, if desired, to foster a connection between CSE and City staff, and ensure that both parties have a shared understanding of program objectives, approach, and timeline. The program kickoff meeting will aim to reach agreement on the following items:

- Program objectives and total not-to-exceed budget for incentive payments.
- A Communications Plan that clarifies reporting timelines, responsibilities and involved parties.
- A Risk Register that identifies all project risks, a responsible party, and mitigation and contingency plans.

Following the kickoff meeting, CSE will finalize key project documents, including a Project Charter, Communications Plan, and Risk Register, and circulate to City staff.

Subtask 3.2: Periodic status reporting and invoicing

CSE will submit program status reports and invoices for administrative costs according to the timeline agreed upon during the kickoff meeting (Subtask 3.1). Program status reports will contain information agreed upon by the City and CSE, which may include the following:

- The number of incentive applications to date by budget program (e.g. single family, multifamily, low-income multifamily, etc.).
- The total amount of incentives paid to date.
- The total estimated energy savings (therms) for incentives distributed to date.

- Program activities for the previous month – e.g. new incentive applications, field inspections, etc.

Invoices will include the following information:

- Total invoice amount,
- Labor costs – including staff members, hours billed, and billable rate,
- Direct costs incurred – e.g. if contracting for inspection services, this would be considered a direct cost,
- Expenditures to date and remaining program budget,

Subtask 3.3: Program closeout

Program closeout is an important and often overlooked step in the planning process. As the City's SWH Program draws to an end, CSE will begin program closeout activities to document the City's acceptance of all program deliverables and finalize payment of all outstanding invoices. CSE will initiate closeout procedures once the final incentive application has been processed and payment has been issued.

Closeout activities will include the following:

- CSE hosts a program closeout meeting, detailing program closeout activities, timeline and deliverables.
- City accepts all deliverables detailed in the Program Scope of Work, and/or justification for why certain deliverables were not able to be completed.
- CSE transfers all relevant program files to the City.
- The City closes down any email accounts of phone lines that were created for program customer service purposes.
- The City removes SWH Program information from their website, and/or updates the program website to reflect that the program is no longer active.

Requirements of the City

To complete this task, CSE will require the following of the City:

- Attend program kickoff and closeout meetings.
- Review and approve the Project Charter following the program kickoff meeting.
- Establish a point of contact for CSE for invoicing and reporting.
- Review and approve final program deliverables.

Deliverables and Milestones

Following are proposed deliverables (D) and milestones (M) for Task 3:

- **D1.** Project Charter.
- **D2.** Communications Plan.
- **D3.** Risk Register.
- **D4.** Periodic program status reports and invoices for CSE administrative costs.

- **D5.** Program closeout memo signed by City and CSE staff.
- **M1.** Project Kickoff Meeting held.
- **M2.** Periodic status reports and invoices submitted.
- **M3.** Project Closeout Meeting held.
- **M4.** Program Closeout memo signed, and program officially closed.

Schedule

Task	Anticipated Timeline
Task 1: Program Design	March 2019 – May 2019
Milestone 1.1: Proposed program requirements and incentive levels submitted to the City for review.	March 30, 2019
Milestone 1.2: CSE and City agree on final program requirements and incentive levels.	April 15, 2019
Milestone 1.3: Draft Handbook submitted to City for review.	May 15, 2019
Milestone 1.4: Draft Program forms submitted to City for review.	May 15, 2019
Milestone 1.5: Draft website content submitted to City for review.	May 15, 2019
Milestone 1.6: Email account and phone lines established for CSE to provide customer service.	April 30, 2019
Milestone 1.7: Final Handbook and program forms made available on City's website.	May 31, 2019
Task 2: Program Implementation	June 2019 – July 2020
Milestone 2.1: The City's SWH Program is open and accepting applications.	June 1, 2019
Milestone 2.2: The program closes to new incentive applications (one-step projects) and reservation requests (two-step projects).	July 31, 2020
Milestone 2.3: Final incentive claim is submitted.	During sunset period, depends on timeline of existing reservations
Task 3: Program Administration	March 2019 – December 2021¹
Milestone 3.1 Project Kickoff Meeting held.	March 15, 2019
Milestone 3.2 Periodic status reports and invoices submitted.	Ongoing, following project kickoff
Milestone 3.3 Program Closeout Meeting held.	TBD, upon receipt of final incentive claim
Milestone 3.4 Program Closeout memo signed, and program closed.	2 months following Program Closeout Meeting

¹ Program closeout date may be advanced if all incentive claims have been completed during the sunset period.

EXHIBIT "B"

Rates or Charges

Compensation

CSE proposes compensation for program design, administration and implementation services through a Time and Materials contract not to exceed **\$60,628**. This amount is in addition to actual incentive payments for qualifying solar thermal systems. CSE will work with the City during the Program Design phase to establish an overall incentives budget and incentive levels.

Table 1 below lists estimated cost for each of the three tasks described above. Actual costs for each task may vary, but the total amount will not exceed **\$60,628**. CSE will invoice the City monthly, or on an otherwise agreed upon schedule. Labor will be billed based on employee labor category and following the rate schedule outlined in Table 2 below. Labor rates will increase at an annual rate of 4%, based on the calendar year.

Table 1. Budget by Task

Task	Cost
Task 1. Program Design	\$23,060
Task 2. Program Implementation	\$30,822
Task 3. Program Administration	\$6,746
TOTAL	\$60,628

Table 2. Annual Fully Loaded Labor Rates (\$/hr)

Labor Category	Calendar Year			
	2018	2019	2020	2021
Director	\$220	\$229	\$238	\$248
Sr. Manager / Sr. Engineer / Sr. Analyst / Sr. Graphic Designer	\$158	\$164	\$171	\$178
Supervisor / Manager / Engineer / Analyst / Graphic Designer	\$135	\$140	\$146	\$152
Associate	\$85	\$88	\$92	\$96

EXHIBIT “C”

City’s Representative:

Rachel Rock, Energy Resources Department

(562) 570-2062

EXHIBIT “D”

Materials/Information Furnished: None

EXHIBIT "E"

Consultant's Key Employee:

Brian Jones