

MASTER RETAINER AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

THIS MASTER RETAINER AGREEMENT for PROFESSIONAL CONSULTANT SERVICES ("AGREEMENT") is entered into by and between the CITY OF POMONA ("the CITY") and **CONSULTANT, INCORPORATED** ("CONSULTANT"). The CITY and CONSULTANT may be individually referred to herein as the Party and collectively as the Parties.

RECITALS

WHEREAS, the CITY desires to retain CONSULTANT to perform professional consulting services for the CITY on an as-needed, per-project basis;

WHEREAS, CONSULTANT desires to perform and assume responsibilities for the provision of certain professional services required by the CITY on the terms and conditions set forth in this Agreement and in the Engagement Letter(s) to be issued pursuant to this Agreement ("Engagement Letter"). An Engagement Letter shall be in substantially the same form set forth in Exhibit "E" attached hereto and incorporated herein by reference. CONSULTANT is willing to perform the services defined herein on an as-needed, per-project basis; and

WHEREAS, CONSULTANT represents that the principal representative stated below is authorized to act as such on behalf of CONSULTANT.

NOW, THEREFORE, the Parties agree as follows:

1. TERM. The term of this AGREEMENT is five (5) years commencing on **DATE** and shall continue through October 31, 2030, unless earlier terminated as provided herein or mutually agreed to otherwise in Engagement Letter(s). CONSULTANT shall complete the services within the term of this Agreement, and shall meet any other established schedules and deadlines set forth in the Engagement Letter(s). This AGREEMENT may be extended in writing by the Director of Public Works by one or more additional twelve (12) month period(s) for any project that has been identified in the Scope of Services and CONSULTANT has been issued a Letter of Engagement, but the project has not been completed.

2. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICE. The representatives of the Parties who are primarily responsible for the administration and performance of the AGREEMENT, and to whom formal notice, demands and communications shall be given, are as follows:

A. The principal representative of the CITY shall be:

Arnold Dichosa, PE, City Engineer
City of Pomona
Public Works Department
505 South Garey Avenue

Pomona, CA 91766
(909) 620-2266

B. The principal representative of the CONSULTANT shall be:

John Smith, PE
123 West Main Street, Suite 101
Pomona, CA 91766
(909) 620-1234

C. Formal notices, demands and communications to be given hereunder by either Party must be made in writing and may be effected by personal delivery or by mail. Notice by facsimile or email will not be acknowledged for purposes for this section.

D. If the name of the principal representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice shall be given within seven (7) calendar days of said changes.

E. For any project awarded by an Engagement Letter under this AGREEMENT, the CITY will designate a Civil Engineer as the City's Project Manager (CPM) who shall oversee CONSULTANT's performance of services.

3. RETENTION. The CITY retains CONSULTANT to provide professional consultant services on an as-needed, per-project basis, in accordance with the terms of this AGREEMENT. CONSULTANT agrees to render such services on the terms and conditions stated herein.

4. SCOPE OF SERVICES. The scope of such services for which CONSULTANT may be retained under the AGREEMENT shall be for professional services under the following Specialty Category, as generally described in **Exhibit "A"** attached hereto and incorporated herein:

*****SELECT RELEVANT CATEGORY*****

A-1 Civil Engineering

A-2 Civil Engineering (Water/Sewer)

A-3 Traffic Engineering

A-4 Construction Management, Inspection, and Sampling Services

A-5 Construction Management and Inspection Services (Water/Sewer)

A-6 GIS and Asset Management Technical Support Services

A-7 Water Resources Manager

A-8 Hydrogeology Services

A-9 Surveying, Mapping, and Right-of-Way Engineering

A-10 Grant Writing

B-10 Architecture

B-11 Landscape Architecture

B-12 Construction Management and Inspection Services (Buildings)
B-13 Electrical Engineering
B-14 Geotechnical Engineering and Materials Testing Services
B-15 Hazardous Materials Testing and Monitoring Services
B-16 Program Management
B-17 Structural Engineering

If the CITY determines that the CITY needs consulting services for a project, the CITY will request informal proposals from three (3) consultants within the applicable Specialty Category on a rotational basis from the beginning to the end of each category. For each project for which CONSULTANT is selected to perform work, CONSULTANT must execute a project-specific Engagement Letter with the CITY. Engagement Letters will identify the Specialty Category Code and Title, and define the scope of work for the specific project, timeline for completion, and not-to-exceed cost to complete the project. CONSULTANT hereby agrees and acknowledges that any and all services performed pursuant to this AGREEMENT shall be based upon the prior issuance of a written Engagement Letter. Furthermore, CONSULTANT hereby agrees and acknowledges that execution of this AGREEMENT by the CITY does not in any way guarantee that an Engagement Letter will be issued to CONSULTANT. Moreover, execution of this AGREEMENT shall not entitle CONSULTANT to any form of payment or compensation from the CITY without CITY first having issued an Engagement Letter. Any duly executed and approved Engagement Letter will become a part of this AGREEMENT.

At the time of entering into an Engagement Letter, CONSULTANT must furnish: 1) a copy of the CONSULTANT's current City of Pomona Business License, 2) a current Certificate of Liability Insurance, and 3) a 700 Form (available on the City of Pomona website).

5. COMPENSATION. For work performed pursuant to any Engagement Letter, the CITY shall pay CONSULTANT an amount not to exceed the maximum compensation amount stated in the Engagement Letter, and in accordance with the Fee Schedule attached hereto as **Exhibit "B"** and incorporated herein. CONSULTANT's compensation for any project awarded by an Engagement Letter shall not exceed the amount authorized by Pomona City Code Section 2-1005(a).

A. CONSULTANT agrees that the fees for services provided pursuant to any Engagement Letter awarded during the term of this AGREEMENT shall not exceed the rates and costs set forth in the Fee Schedule, attached hereto as Exhibit "B," except for prevailing wage positions indicated as such in Exhibit "B." The CONSULTANT shall not receive prevailing wage adjustments unless the CONSULTANT obtains the City's advanced written approval.

B. CONSULTANT shall indicate each position for which prevailing wages are set by the Department of Industrial Relations.

C. Total compensation includes all amounts payable to CONSULTANT for its overhead, payroll, profit, and all costs of whatever nature, including, without limitation, all costs for subcontracts, materials, equipment, supplies, to perform the services.

D. CONSULTANT's fees for work performed pursuant to any Engagement Letter shall not deviate from the fees approved under the Master Retainer Agreement, except as stated in Section 5.A.

E. CONSULTANT will not receive a Consumer Price Index adjustment to hourly fees, percentage charged on overhead and costs or hourly fees for subconsultants during the term of the AGREEMENT and any extensions thereto.

F. CONSULTANT must submit original invoices in hard copy and electronically to the CITY's Project Manager ("CPM") within fifteen (15) days after the end of each month in which the CONSULTANT provided services. CONSULTANT shall provide invoices with sufficient detail to ensure compliance with the Fee Schedule in Exhibit "B."

G. CONSULTANT must submit original invoices on CONSULTANT's letterhead with original signatures shall be submitted to the CPM. All invoices must include, but not be limited to, the following:

Project Name

1. Project Number
2. Specialty Category Code and Title
3. Purchase Order Number
4. Invoice Date
5. Invoice Number (Progressive and Unique to Project)
6. Task details performed or completed during the invoiced period, along with assigned staff's hourly rate, number of hours and subtotals
7. Percentage of task(s) completed, as applicable (as verified by CPM)
8. Percentage of project completed through invoicing period (as verified by CPM)

H. The proportion of total compensation paid to CONSULTANT as of the invoice date shall not exceed the City Engineer's estimated percentage of the project or tasks (as applicable) completed as of the invoice date.

I. Reimbursement requests shall be itemized on the respective invoice, with supporting documentation attached.

1. Invoice must state date of expense and purpose.
2. All supporting receipts must be attached.
3. Any request for travel-related expense reimbursement must be pre-approved by the CITY.

J. CONSULTANT must submit original documents for payment. Copies of the documents referenced in this Section 5 will NOT be processed for payment.

K. Undisputed invoices will be paid within thirty (30) days of receipt by the CITY.

L. CITY's payment pursuant to this Agreement shall not constitute a waiver of any breach or defect in the performance of work, nor a waiver of disputes regarding compensation owed to CONSULTANT for work performed.

6. INDEPENDENT CONTRACTOR.

A. CONSULTANT is an independent contractor. As such, CONSULTANT shall have no power or authority to incur any debt, obligation or liability on behalf of the CITY, unless such authority is expressly conferred pursuant to a specific project awarded by an Engagement Letter under this AGREEMENT. Further, CONSULTANT is not entitled to any benefit typically associated with an employee such as medical, sick leave, retirement, or vacation benefit. CONSULTANT expressly waives any claim to any such right.

B. The personnel performing services on any project awarded by Engagement Letter pursuant to this AGREEMENT, and on behalf of CONSULTANT, will, at all times, be under CONSULTANT's exclusive direction and control. Neither the CITY, nor any of its employees, shall have any control over the manner, mode, or means by which CONSULTANT, its agents, or its employees, perform the services required herein, except as otherwise stated in this AGREEMENT.

C. CONSULTANT will perform services pursuant to any Engagement Letter awarded under this AGREEMENT as an independent contractor and will, at all times, remain a wholly independent contractor. The CITY does not in any way or for any purpose become, nor may it be deemed a partner of CONSULTANT in the latter's business or otherwise a joint venture or member of any joint enterprise with CONSULTANT.

7. PERS INDEMNITY.

A. In the event CONSULTANT or any employee, agent, or subcontractor of CONSULTANT providing services pursuant to an Engagement Letter awarded pursuant to this AGREEMENT claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the CITY, CONSULTANT will indemnify, defend and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of CONSULTANT or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the CITY.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, CONSULTANT and any of its employees,

agents, and subcontractors providing service under this AGREEMENT shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by the CITY, including but not limited to eligibility to enroll in PERS as an employee of the CITY and entitlement to any contribution to be paid by the CITY for employer contribution and/or employee contributions for PERS benefits.

C. CONSULTANT is solely responsible for compliance with PERS restrictions applicable to any of CONSULTANT's employees, agents, or subcontractors.

8. ECONOMIC INTEREST STATEMENT. CONSULTANT hereby acknowledges that, in accordance with Government Code Section 87300 and the Conflict of Interest Code adopted by the CITY hereunder, CONSULTANT is designated in said Conflict of Interest Code and is therefore required to file an Economic Interest Statement (Form 700) with the City Clerk, for each employee providing advice under any Engagement Letter awarded pursuant to this AGREEMENT, prior to the commencement of work. The extent of CONSULTANTS disclosure requirements will be set forth in a Written Determination of the City Manager of the CITY, attached hereto as **Exhibit "C"** and incorporated herein.

9. VERIFICATION OF EMPLOYMENT ELIGIBILITY. By executing this AGREEMENT, CONSULTANT verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and subcontractors to comply with the same.

10. INDEMNITY AND INSURANCE

A. INDEMNITY. To the fullest extent permitted by law, CONSULTANT hereby agrees to protect, indemnify, defend and hold the CITY and its officials, employees, officers, agents and servants free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgment, interests, court costs, legal fees, expert costs, expert fees and all other expenses incurred by the CITY to the maximum extent allowed by law arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the CITY, death or damages to property (including property of the CITY) and without limitation by enumeration, all other claims or demands occurring or arising out of, as a consequence of, or incident to any acts, errors or omissions, or willful misconduct of CONSULTANT, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the CONSULTANT's services, any Engagement Letter, or this Agreement, except to the extent such injury to persons or damage to property caused by the sole negligence or willful misconduct of the CITY. CONSULTANT's obligation to indemnify shall survive expiration or termination of this AGREEMENT and shall not be restricted to insurance proceeds, if any,

received by CONSULTANT or the CITY and its officials, officers, employees, agents, or servants.

B. If CONSULTANT's obligation to defend, indemnify, and /or hold harmless arises out of CONSULTANT's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, CONSULTANT's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, and, upon CONSULTANT obtaining a final adjudication by a court of competent jurisdiction, CONSULTANT's liability for such claim, including the cost to defend, shall not exceed CONSULTANT's proportionate percentage of fault.

B. INSURANCE. CONSULTANT shall procure and maintain at all times during the term of this Agreement insurance as set forth in Exhibit "D" attached hereto and incorporated herein.

11. OWNERSHIP OF WORK PRODUCT. All data, files, information, reports, documents and all other material developed by CONSULTANT, its employees, subconsultants, subcontractors and agents in the performance of this AGREEMENT shall, upon the CITY's payment of undisputed compensation amounts, be and remain the property of the CITY without restriction or limitation upon its use or dissemination by the CITY. Such material shall not be the subject of a copyright application by CONSULTANT. If this AGREEMENT is terminated, then upon the CITY's request, CONSULTANT shall provide all finished or unfinished work product (data, reports, documents, or other written material or images) that CONSULTANT (or subconsultant) prepared in the performance of this AGREEMENT. Notwithstanding the foregoing, CONSULTANT shall bear no liability or responsibility for work product that is modified by anyone other than the CONSULTANT after delivery to the CITY, or work product that is used for a purpose other than for which the work product was created under this AGREEMENT.

12. CONFIDENTIALITY. Employees of CONSULTANT, in the course of their duties, may have access to financial, accounting, statistical, and personnel data of private individuals and employees of the CITY. CONSULTANT covenants that all data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this AGREEMENT are deemed confidential and shall not be disclosed by CONSULTANT without written authorization by the CITY. The CITY shall grant such authorization if disclosure is required by law. All CITY data shall be returned to the CITY upon the termination of this AGREEMENT. CONSULTANT's covenant under this Section survives the termination of this AGREEMENT.

13. TERMINATION FOR CONVENIENCE. The CITY may terminate this AGREEMENT and any Engagement Letter awarded pursuant to this AGREEMENT at any time without cause by giving thirty (30) calendar days written notice to CONSULTANT of such termination and specifying the effective date thereof. If this AGREEMENT or any Engagement Letter is terminated as provided herein, CONSULTANT shall be paid only for the service CONSULTANT has provided, to the CITY's satisfaction, as determined

reasonably and solely by the CITY, as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in Engagement Letter or the value of services provided as of date of termination. CONSULTANT shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of services.

14. TERMINATION FOR CAUSE. If for any reason, CONSULTANT shall fail to fulfill in a timely and proper manner its obligation for any project awarded by Engagement Letter and pursuant to the provisions of this AGREEMENT, or if CONSULTANT violates any of the covenants or stipulations of this AGREEMENT, the CITY shall then have the right to terminate the Engagement Letter and this AGREEMENT by giving a five (5) calendar day written notice to CONSULTANT. The notice shall refer to this clause, shall specify the nature of the alleged default, and shall specify the effective date of the termination. The CONSULTANT will be paid for the service CONSULTANT has provided, to the CITY's satisfaction, as determined solely by the CITY, as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in the Engagement Letter awarded, pursuant to the terms of this AGREEMENT. CITY shall be entitled to reimbursement for any compensation paid in excess of services rendered and shall be entitled to withhold compensation for defective work or other damages caused by CONSULTANT's violation of the AGREEMENT.

15. ASSIGNMENT AND SUBCONTRACTING. Neither Party shall assign or subcontract the rights or responsibilities under this AGREEMENT without the express, written consent of the other Party, which may be withheld for any reason or for no reason. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this AGREEMENT.

16. STANDARD. CONSULTANT agrees that the services to be rendered pursuant to any project awarded by Engagement Letter and this AGREEMENT shall be performed with the degree of care and skill ordinarily exercised by members of the same profession under the same or similar circumstances. CONSULTANT shall be responsible for its services and results under this AGREEMENT and any Engagement Letter. CONSULTANT shall re-perform any of said services, which are not in conformity with standards as determined by the CITY.

17. RESOLUTION OF DISPUTES.

A. Disputes regarding the interpretation or application of any provisions of any Engagement Letter awarded and this AGREEMENT shall, to the extent reasonably feasible, be resolved through good faith negotiations between the Parties.

B. If any action, at law or in equity, is brought to enforce or to interpret any provisions of any Engagement Letter awarded pursuant to this AGREEMENT, the prevailing party in such action shall be entitled to recover reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

18. FORCE MAJEURE. Time is of the essence for each and every provision of this AGREEMENT. The respective duties and obligations of the Parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by circumstances beyond the reasonable control of the non-performing Party.. For purposes of this AGREEMENT, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects the Party's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); and (4) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety. Should such a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this AGREEMENT or an Engagement Letter. Delays shall not entitle CONSULTANT to any additional compensation regardless of the Party responsible for the delay. Notwithstanding the foregoing, the CITY may still terminate this AGREEMENT in accordance with the termination provisions of this AGREEMENT.

19. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY. In the performance of any Engagement Letter awarded pursuant to this AGREEMENT, CONSULTANT shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age physical or mental handicap, medical condition, or sexual orientation. CONSULTANT will take affirmative action to ensure that subcontractors and applicants are employed without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

20. SEVERABILITY. If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions nevertheless will continue in full force and effect without being impaired or invalidated in any way.

21. GOVERNING LAW. This AGREEMENT shall be governed by and construed in accordance with laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

22. COMPLIANCE WITH LAWS.

A. CONSULTANT shall keep informed of, and comply with, State, Federal, and local laws, ordinances, codes, and regulations that in any manner affect

the CONSULTANT's performance of this AGREEMENT. The CONSULTANT shall at all times comply with such laws, ordinances, codes and regulations.

B. CONSULTANT shall obtain a CITY Business License prior to commencing performance under this AGREEMENT.

C. If CONSULTANT is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to the California Corporations Code.

D. CONSULTANT is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the CONSULTANT's services pursuant to an Engagement Letter under this AGREEMENT are part of an applicable public works or maintenance project, as defined by the Prevailing Wage Laws and the total compensation is \$1,000.00 or more, then CONSULTANT shall fully comply with Prevailing Wage Laws. Moreover, as required by Labor Code section 1860, CONSULTANT will secure the payment of compensation to CONSULTANT's employees in accordance with the provisions of Labor Code section 3700. CONSULTANT will obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. CONSULTANT will make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to carry out the contract services available to interested parties upon request and will post copies at CONSULTANT's principal place of business and at the project site.

E. CONSULTANT shall defend, indemnify and hold the CITY, its officials officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the CONSULTANT and all subconsultants to comply with all California Labor Code provisions, which include, but are not limited to, prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.4).

F. In addition, if CONSULTANT's services pursuant to an Engagement Letter awarded under this AGREEMENT are part of an applicable public works or maintenance project, as defined by state law, then pursuant to Labor Code Sections 1725.5 and 1771.7, CONSULTANT must be registered with the Department of Industrial Relations (DIR). CONSULTANT shall maintain registration for the duration of the project and require the same of any

subconsultant or subcontractor. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified Labor Code Sections 1725.5 and 1771.1.

G. The project may also be subject to compliance monitoring and enforcement by the DIR. CONSULTANT is solely responsible for complying with DIR and Labor Code requirements, including the submission of payroll records directly to the DIR.

H. The CITY, its officers, and employees, shall not be liable at law or in equity occasioned by CONSULTANT's failure to comply with this Section. Any stop orders issued by the DIR against CONSULTANT or any subcontractor that affect CONSULTANT's performance of services, including any delay, shall be CONSULTANT's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered CONSULTANT-caused delay and shall not be compensable by the CITY. CONSULTANT shall defend, indemnify and hold the CITY, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against CONSULTANT or any subcontractor.

23. MAINTENANCE OF RECORDS. Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by CONSULTANT and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by the CITY.

24. NON-WAIVER. The CITY's waiver of any breach of any provision of this AGREEMENT shall not be deemed a waiver of any other provision of this AGREEMENT, and shall not be deemed a waiver of any subsequent breach of the same provision or any other provision. The CITY's payment to CONSULTANT shall not constitute a waiver of any breach or default which may then exist on the part of CONSULTANT. The CITY's payment to CONSULTANT shall not impair or prejudice any right or remedy available to the CITY with regarding to such breach or default.

25. NON-EXCLUSIVE CLAUSE. The CITY does not warrant to contract exclusively with CONSULTANT for services provided under this AGREEMENT.

26. HEADINGS. Section headings are only for convenience and shall not be used to construe meaning or intent.

27. RECITALS. The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein.

28. NO CONSTRUCTION OF AGREEMENT AGAINST ANY PARTY. Each Party has cooperated in the drafting and preparation of this AGREEMENT. Therefore, this

AGREEMENT shall not be construed against any Party on the basis that such Party drafted this AGREEMENT or any provision within it.

29. ENTIRE AGREEMENT. All Exhibits are incorporated into this AGREEMENT by reference. This AGREEMENT, together with Exhibits "A," "B," "C" and "D" supersede any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter herein. Agreements, statements, or promises are invalid if they are not embodied in this AGREEMENT or in an Engagement Letter awarded pursuant to this AGREEMENT. Any modification of the AGREEMENT shall be effective only if it is in writing and signed by all Parties.

30. SURVIVING COVENANTS. The Parties agree that the covenants contained in Sections 7 (PERS Indemnity), 9.A (Indemnity), and 11 (Confidentiality) shall survive the expiration or termination of this AGREEMENT.

31. COUNTERPARTS. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one single AGREEMENT.

32. AUTHORITY. The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this AGREEMENT.

[END OF TEXT. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF this Agreement is entered into by the Parties hereto on the dates set forth below.

CITY OF POMONA

Anita D. Scott, City Manager

Date: _____

APPROVED AS TO FORM:

,City Attorney

ATTEST:

Rosalia Butler, City Clerk

CONSULTANT

By _____

Printed Name

Title

Date: _____

Master On-Call Consultant List Approved by City Council on October 20, 2025

MASTER RETAINER AGREEMENT - EXHIBIT “A”

SCOPE OF SERVICES

No	Category	Potential Projects	Potential Tasks
A-1	Civil Engineering Required license and certificates for assigned staff: • PE Civil (in CA)	• Surface, Roadway and Street Improvements • Parking Lots • Roadway Lighting • Intersection Improvements • ADA • Pavement Resurfacing Projects • Driveways, Curbs, Gutter, Medians, Sidewalks, Cross Gutters, Walkways, Curb Extensions • Drainage, Piping, pumping systems • Pavement Management System • Complete Streets • Green Streets • Plan Check of Private Development and site design of Grading, Drainage, utilities, and Off-Site Improvement Plans and Technical Reports • Standard Plans & Specification Update • Preventative Maintenance Plans • Federal and State Grant reimbursements • Staff Augmentation	• Project Management • Design Survey and Geometrics • Pavement Evaluation and Design • Environmental Permitting • Coordination w/other Agencies & Utilities • Construction/Biddability Reviews • Peer Review of PS&Es prepared by Others (Roadways/Traffic/Parks/Drainage/Sewers) • Value Engineering • AutoCAD Services • Preliminary Engineering Studies • Technical Reports • Alternatives Analysis • Final Design PS&Es • Public Bidding and Construction Phase Services • On-Call Services • Comply with Federal and State Grant requirements • Comply with CDBG requirements • Federal and State Grant reimbursements • Staff Augmentation is Intended to Provide Qualified Engineering Staff on a Temporary, On-Call, As-Needed Basis
A-2	Civil Engineering Water/Sewer Required license and certificates for assigned staff: • PE Civil (in CA) • QSD and QSP • PMP or similar certification	• Water & Sewer pipeline project • Staff Augmentation • Reservoirs rehabilitation/ design projects • AMI Integration and Implementation	• Prepare PS&E for water and sewer pipeline projects • Prepare PS&E for Reservoirs rehabilitation/replacement projects • AutoCAD Services • Preliminary Engineering Studies • Technical Reports • Alternatives Analysis
A-3	Traffic Engineering Required license and certificates for assigned staff: • PE Civil (in CA) • PE Traffic (in CA)	• Any City Property, Project, Improvements, or Municipal Services • Private Projects submitted for City Approval • New and Upgraded Traffic Signals • Pedestrian Crossings and Connectivity • Bicycle Lane Linkages • Signal Timing Assessments • Fiber Optics • Interconnection & Synchronization • Intersection Modifications • Transportation Planning • Pedestrian and Bicycle Projects • Traffic Calming Plans • Corridor Evaluations • Circulation Studies	• Traffic Counts • Traffic Studies • Speed Surveys • Parking Studies • Signal Warrants • Signal Design • Signage and Striping Plans • Traffic Control and Barricading Plans • ITS Development • Multi-Modal Transportation Planning • Interagency Coordination • Reporting and Presentations • Preliminary Engineering / Final Design PS&E • Comply with Federal and State Grant requirements • Federal and State Grant reimbursements

		• Staff Augmentation	• Public Bidding and Construction Phase Services • On-Call Services • Staff Augmentation is Intended to Provide Qualified Traffic Engineering Staff on a Temporary, On-Call, As-Needed Basis
A-4	Construction Management, Inspection, and Sampling Services Required license and certificates for assigned staff: • PE Civil (in CA)	• Roadways and Street Improvements • Pavement Resurfacing • Signing/Striping • Traffic Signals • Street Lights • Drainage, Culverts, Basins • Grading • Parks and Trails • Storm Drain Master Plan • Asset Assessment	• Constructability/Biddability Reviews • Value Engineering • Public Bidding Phase Support • Submittal Tracking and Reviews • Construction Staking • Construction Management & Controls • Contract Administration • Inter-agency and Third Party Utility Coordination • Construction Inspection • Storm Water Quality Inspections • Materials Testing Progress Meetings and Reporting • Public Relations/Outreach • Progress Payments and Grant/Fund Tracking • Change Order Management • Permit Monitoring • SWPPP & Erosion/Sediment Control Monitoring • Claims & Disputes Prevention/Mitigation • Comply with Federal and State Grant requirements • Comply with CDBG requirements • Federal and State Grant reimbursements • Project Closeout • On-Call Services
A-5	Construction Management and Inspection Services Water/Sewer Required license and certificates for assigned staff: • PE Civil (in CA) • QSD and QSP • PMP or similar certification	• Water & sewer pipeline projects • Staff Augmentation • Reservoirs rehabilitation/replacement projects • AMI Integration and Implementation • Asset Assessment Reports • Reservoir Rehabilitation	• Constructability/Bidability Reviews • Submittal Tracking and Reviews • Construction Management & Controls • Contract Administration • Inter-agency and Third Party Utility Coordination • Construction Inspection • Multi-Trades Materials Testing (asphalt, concrete, masonry, steel) • Progress Meetings and Reporting • Change Order Management • Permit Monitoring • Project Closeout
A-6	GIS and Asset Management Technical Support Services Required license and certificates for assigned staff: • GISP	• GIS Applications • Centralized Documentation System • Asset Management Systems • Geodatabase Construction	• GIS Applications Implementation • GIS Attribute Data Entry • GIS Tracking of Hazardous Materials • Centralized Documentation Systems • Asset Management Systems • Systems Integration Management • Documentation and Training • On-Call Services

A-7	Water Resources Management Required license and certificates for assigned staff: • PE Civil (in CA) • QSD and QSP	• Urban water management plans (UWMP) • Regional water and wastewater hydraulic modeling • General engineering planning documents. • SCADA • Grant Funding Management	• Development of citywide hydraulic models with various hydraulic scenarios and full calibration. • Archived data collection/review • Demand monitoring/projection • Design of model criteria • Specific use of Innovyze InfoWater and InfoSewer software for all model scenarios/reports • Full model calibration based on current SCADA data
A-8	Hydrogeology Services Required license and certificates for assigned staff: • PG (in CA) or CHG (Certified Hydrogeologist) • QSD and QSP	• Planning, rehabilitation, replacement of existing and future groundwater facilities (wells and spreading grounds). • Groundwater Recharge • Groundwater Containment Tracking • Groundwater Aquifer Subsidence • Spadra GSA	• Analyze, plan and design groundwater spreading and aquifer recharge projects • Supply infrastructure including analysis of existing well conditions, treatment needs, capacity, redevelopment, and potential master planning of additional potable wells.
A-9	Surveying, Mapping, and Right-of-Way Engineering (Assigned staff must have a current and valid license as Professional Civil Engineer prior to 1/1/82 or Professional Land Surveyor in the State of California)	• Any City Property, Project, Improvements, or Municipal Services • Staff Augmentation	• Ground Control • Aerial Photography/Base Mapping • Mapping • Design Surveys • Digital Terrain Modeling • Topographic Surveys • Construction Staking • Quality Assurance of Contractor's Staking • Set Monuments • Records and Lands Title Research • Plats and Legal Descriptions for Right-of-Way and Easement Acquisitions • Right-of-Way Certifications (Caltrans) • Acquisition Support • On-Call Services • Staff Augmentation is Intended to Provide Qualified Land Surveying Staff on a Temporary, On-Call, As-Needed Basis
B-10	Architecture (Assigned staff must have a current and valid license as Licensed Architect in the State of California)	• Facility Remodels/Renovations and Tenant Improvements for: ○ City Hall ○ Council Chamber ○ Fire Stations ○ Library ○ Police Station ○ Community Center ○ Senior Center ○ Park and other Public Restrooms ○ Other Administrative Offices ○ Other City Owned Buildings ○ Modular Buildings ○ Other City Projects	• Building Condition Assessments • Site Selection • Master Planning/Space Planning • Feasibility Studies • Renderings/Models/Displays • Disabled Accessibility Evaluations and Mitigation • Life Cycle Cost Estimates • Peer Review of Building Design by Others • Interior Design • Sustainable Solutions • Public/Community Outreach • Technical Studies, Reports and Presentations • Conceptual/Schematic Design • Design Development

			• Final Design Plans, Specifications and Estimates (PS&E) • Public Bidding and Construction Phase Services • On-Call Services
B-11	Landscape Architecture (Assigned staff must have a current and valid license as Licensed Landscape Architect in the State of California)	• Any City Property, Project, Improvements, or Municipal Services • Parks Master Plan • Park Renovations • Landscaping and Streetscapes • Water-Conserving Irrigation Systems • Sports Fields • Dog Park • Playgrounds, Picnic Areas • Neighborhood Entry Features • Erosion Control	• Parks Condition Assessments • Parks/Trails Master Planning • Arborist Services • Playground Equipment Inspections • Feasibility Studies • Cost Estimating • Schematics and Renderings • Reporting and Presentations • Peer Review of PS&Es Prepared by Others • Preliminary Design • Final Design PS&Es • Public Bidding and Construction Phase Services • On-Call Services
B-12	Construction Management and Inspection Services (Buildings) (Assigned staff must have a current and valid license as Professional Civil Engineer in the State of California)	• Facilities and Remodels • Roof Upgrades • HVAC Upgrades	• Constructability/Biddability Reviews • Value Engineering • Public Bidding Phase Support • Submittal Tracking and Reviews • Construction Staking • Construction Management & Controls • Contract Administration • Inter-agency and Third Party Utility Coordination • Construction Inspection • Storm Water Quality Inspections • Materials Testing • Multi-Trades Materials Testing (asphalt, concrete, masonry, steel) • Progress Meetings and Reporting • Progress Payments and Fund/Grant Tracking • Change Order Management • Permit Monitoring • SWPPP & Erosion/Sediment Control Monitoring • Claims & Disputes Prevention/Mitigation • Project Closeout • On-Call Services
B-13	Electrical Engineering (Assigned staff must have a current and valid license as Professional Electrical Engineer in the State of California)	• Any City Property, Project, Improvements, or Municipal Services • Emergency Generators • Facility Lighting • Sports Field Lighting • Switchgear • Communications Systems • Fire Alarm and Security Systems • Street Lighting • HVAC and Building Systems • Radio Systems	• Electrical/Mechanical Assessments • Feasibility Studies • Energy and Greenhouse Gas Reduction Strategies • Renewable Energy Solutions • Photometric Studies • Recommendations on Lights & Fixtures • Preliminary Engineering • Final Design PS&Es • Public Bidding and Construction Phase Services • On-Call Services

B-14	Geotechnical Engineering and Materials Testing (Assigned staff must have a current and valid license as Professional Geotechnical Engineer in the State of California)	Any City Property, Project, Improvements, or Municipal Services	- Site Investigations - Geologic Investigations - Soils and Asphalt Pavement Borings - Laboratory Testing - Non-destructive Testing - Geotechnical Reports - Pavement Condition Surveys - Pavement Section Design Alternatives - Retaining Wall Design Parameters - Slope Stabilization - Landslide Monitoring - Grading Observations - Multi-Trades Building Inspections and Materials Testing (asphalt, concrete, masonry, steel) - On-Call Services
B-15	Hazardous Materials Testing and Monitoring Services (Assigned staff must have a current and valid license as Professional Geotechnical Engineer in the State of California)	Any City Property, Project, Improvements, or Municipal Services	- Hazardous Materials Testing (Asbestos, Molds, and others) - Laboratory Testing - Abatement and Remediation PS&Es - Policies and Procedures - Documentation and Training - Emergency Response - On-Call Services
B-16	Program Management	- Any City Property, Project, Improvements, or Municipal Services - Front-End Contract Documents and General Conditions Update - Program Management - Staff Augmentation	- On-Call Services - Program Management is Intended to Provide Qualified, Project Manager(s), serving as an extension of City Staff, to manage engineering, design, bidding, and construction of concurrent CIP Projects - Staff Augmentation is Intended to Provide Qualified Engineering and/or Construction Management Professional Staff on a Temporary, On-Call, As-Needed Basis.
B-17	Structural Engineering (Assigned staff must have a current and valid license as Professional Structural Engineer in the State of California)	- Any City Property, Project, Improvements, or Municipal Services - Parking Garages - Retaining Walls - Roadway and Pedestrian Bridges - Utility Vaults - Box Culverts, Headwalls - Building Framing Systems - Foundation Slabs	- Buildings/Facilities Condition Assessments - Structural Analysis and Design - Seismic Evaluations - Structural Modifications - Non-destructive Testing - Rehabilitation Strategies - Preliminary Engineering - Final Design PS&Es - Public Bidding and Construction Phase Services - On-Call Services

MASTER RETAINER AGREEMENT - EXHIBIT “B”

FEE SCHEDULE

Hourly rates and charges shall remain fixed for the duration of the Master Agreement, and any extensions thereto, except for positions subject to prevailing wages set by the Department of Industrial Relations.

MASTER RETAINER AGREEMENT - EXHIBIT "C"
WRITTEN DETERMINATION
(Page 1 of 2)

I, ~~James Makshanoff~~Anita Scott, City Manager of the City of Pomona ("CITY") have made the following determination with regard to economic interest disclosure requirements for (name of employee) an employee of **Consultant, INCORPORATED**, pursuant to the Conflict of Interest Code adopted by CITY:

☒ [X] CONSULTANT shall disclose its economic interest pursuant to the broadest disclosure category in the Code. (CATEGORY I*)

☐ [] CONSULTANT has been hired to perform a range of duties that are limited in scope and thus CONSULTANT is not required to comply with the broadest disclosure category requirements. Based on the Scope of Services set forth in Exhibit "A," of the Agreement, CONSULTANT need only provide economic interest disclosure under the following categories*:

☐ [] CATEGORY I: Business interests and Investments

☐ [] CATEGORY II: Supply Sources

☐ [] CATEGORY III: Contractors

☐ [] CATEGORY IV: Geographic location

*A full explanation of each of these disclosure categories is found on page 2 of this Exhibit.

☐ [] CONSULTANT is not required to comply with Disclosure requirements based on the following:

☐ [] Duties of CONSULTANT under this AGREEMENT are not applicable to Conflict of Interest Code

☐ [] Other:

Date: _____

Anita D. Scott, City Manager

WRITTEN DETERMINATION
(Page 2 of 2)
DESIGNATED EMPLOYEE CATEGORIES

- I. This category applies to individuals that make, or participate in making, decisions that may have a material effect on their financial interest(s) in:
- a. businesses in which the individual holds an investment or business position¹;
 - b. sources of income; or
 - c. real property.

Individuals subject to this category need not disclose under Category II or III. Individuals subject to this category must disclose any of the following financial interests within the City and within two miles of City boundaries:

- a. investments in business entities²;
- b. business positions held;
- c. sources of income; and
- d. interests in real property.

- II. This category applies to individuals that make, or participate in making, decisions that involve the purchase of services, supplies, materials, machinery or equipment.

Individuals subject to this category must disclose any of the following financial interests in business entities which provide services, supplies, materials, machinery, equipment, or technology of the type utilized by the City:

- a. investments in business entities;
- b. business positions held; and
- c. sources of income.

- III. This category applies to individuals that make, or participate in making, decisions that involve contracting for services including, but not limited to:
- a. professional services;
 - b. vendor services;
 - c. consulting services; and
 - d. contractor services.

Individuals subject to this category must disclose any of the following financial interests in business entities which provide contract services, of the type utilized by the City:

- a. investments in business entities;
- b. business positions held; and
- c. sources of income.

- IV. This category applies, as applicable, to commissioners. Individuals subject to this category must disclose:

- a. all investments in, interest in, or income from, real property located within the jurisdiction of the respective board or commission and five hundred feet contiguous thereto; and
- b. all investments in, interest in, or income from, any business entity:
 - i. in which the person holds a business position; and
 - ii. that is either: A) within the jurisdiction of the respective board or commission and five hundred feet contiguous thereto; or B) conducted business within the jurisdiction of the respective board or commission and five hundred feet contiguous thereto, at any time during the two years prior to the date of filing the Statements of Economic Interest.

1 "Business positions" shall include, but not be limited to, a role as a director, officers, partner, trustee, employee, or any management position.

2 "Business entities" shall include, but not be limited to, sole proprietorships, partnerships, and corporations.

MASTER RETAINER AGREEMENT - EXHIBIT "D"

INSURANCE REQUIREMENTS

CONSULTANT shall maintain throughout the duration of the term of the AGREEMENT, Liability Insurance covering CONSULTANT and designating CITY, including its elected or appointed officials, directors, officers, authorized agents, and employees, as additional insureds against claims resulting in injury or damage to persons or property (both real and personal) caused by any aspect of CONSULTANT's work, in amounts no less than the following and with such deductibles as are ordinary and reasonable in keeping with industry standards. It shall be stated, in the Additional Insured Endorsement, that CONSULTANT's insurance policies shall be primary with respect to any claims related to or as the result of CONSULTANT's work. Any insurance, pooled coverage, or self-insurance maintained by CITY, its elected or appointed officials, directors, officers, authorized agents, and employees shall be non-contributory. The Additional Insured Endorsement shall not apply to the Professional Liability or Workers' Compensation Insurance requirement.

Professional Liability Insurance, the retroactive date shall precede the effective date of this AGREEMENT and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this AGREEMENT:

- a. General Aggregate \$2,000,000 per claim and in the aggregate

General Liability for bodily injury, personal injury and property damage, at least as broad as Insurance Services Office Commercial General Liability most recent Occurrence Form CG 00 01:

- a. General Aggregate \$2,000,000
- b. Products Comp/Op Aggregate \$2,000,000
- c. Personal & Advertising Injury \$1,000,000
- d. Each Occurrence \$1,000,000
- e. Fire Damage (any one fire) \$50,000
- f. Medical Expense (any one person) \$5,000

Workers' Compensation:

- a. Workers' Compensation Statutory Limits
- b. EL Each Accident \$1,000,000
- c. EL Disease - Policy Limit \$1,000,000
- d. EL Disease - Each Employee \$1,000,000

Automobile Liability for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, for bodily injury and property damage, at least as broad as most recent Insurance Services Office Form Number CA 00 01 covering automobile liability, Code 1 (any auto)

- a. Any vehicle, combined single limit \$1,000,000

CONSULTANT shall provide thirty (30) days advance notice to CITY in the event of cancellation of any coverage. Certificates of insurance and additional insured endorsements shall be furnished to CITY thirty (30) days prior to the effective date of this Agreement. Refusal to submit such certificates shall constitute a material breach of this Agreement entitling CITY to any and all remedies at law or in equity, including termination of this Agreement. If proof of insurance required under this Agreement is not delivered as required or if such insurance is canceled and not adequately replaced, CITY shall have the right but not the duty to obtain replacement insurance and to charge the CONSULTANT for any premium due for such coverage. CITY has the option to deduct any such premium from the sums due to the CONSULTANT.

Insurance is to be placed with insurers authorized and admitted to write insurance in California and with a current A.M. Best's rating of A-:VII or better. Acceptance of insurance from a carrier with a rating lower than A-:VII is subject to approval by CITY's Risk Manager.

MASTER RETAINER AGREEMENT - EXHIBIT “E”

ENGAGEMENT LETTER

Month Day, 2025

Mr. xxxxxxxx, PE
Consultant, Inc.
123 S. Main St
Pomona, CA 91234

ENGAGEMENT LETTER FOR CONSULTANT SERVICES

Project Title, Project Number

The purpose of this Engagement Letters is for the City of Pomona (the “City”) to engage Consultant, Inc. (the “Consultant”) to provide professional services for preliminary engineering, pursuant to terms and conditions of the Master Retainer Agreement approved by the City Council on October 5, 2020 and entered into by and between the City of Pomona and Consultant for Specialty Category Category Number (Category Name), as stated in Section 3, of the “Scope of Services,” included as Exhibit A of the Master Retainer Agreement.

The Scope of Work to be completed pursuant to this Engagement Letter and the cost breakdown are set forth in Exhibit A, attached hereto and incorporated herein. The cost for performing the services under this Engagement Letter, shall not exceed twenty three thousand four hundred and four dollars (\$23,404), without prior written approval by the City. The charges and hourly rates shall not exceed those stated and in effect when the Master Retainer Agreement was approved on October 20, 2025 and as stated in the fee schedule attached hereto as Exhibit B and incorporated herein.

Consultant acknowledges and agrees that the personnel assigned to this Project, as set forth in Exhibit A shall not be substituted unless prior written authorization is given by the City Engineer. Pursuant to the City’s Conflict of Interest Code, Consultant has provided a California Fair Political Practices Commission Statement of Economic Interest- Form 700 for each of its staff assigned to the project for submittal to the City Clerk.

By signing and returning this Engagement Letter, the authorized agent of the Consultant agrees to the provisions stated herein. The engagement of the Consultant for the services stated herein shall occur upon the execution of this letter by the Consultant, the issuance of a purchase order and the issuance of a “Notice to Proceed” by the Public Works Director.

THE CITY OF POMONA

Consultant Firm, Inc.

Recommended By:

By: _____
Its: _____
Date: _____

City Engineer

Approved By:

Approved By:

Public Works Director

City Attorney

Date: _____

Date: _____

Exhibits: A. Scope of Work/Services under Engagement Letter and Assigned
 Consultant Staffing
 B. Master Agreement Fee Schedule