

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is between the City of Manhattan Beach, a California municipal corporation (“City”) and IDS Group, Inc., a California corporation (“Consultant”). The date this Agreement is executed by the City Manager shall be the date this Agreement is effective (“Effective Date”). City and Consultant are sometimes referred to herein as the “Parties”, and individually as a “Party”.

### RECITALS

A. City desires to utilize the services of Consultant as an independent contractor to provide Seismic Evaluation services for the Lot 3 Parking Structure.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

#### 1. Consultant’s Services.

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the “Services”) for Seismic Evaluation of Lot 3 Parking Structure, attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Consultant Representative shall be Said Hilmy, President/ CFO (the “Consultant Representative”). The Consultant Representative shall directly manage Consultant’s Services under this Agreement. Consultant shall not change the Consultant Representative without City’s prior written consent.

C. Time for Performance. Consultant shall commence the Services on the Effective Date and shall perform all Services in conformance with the project timeline set forth in Exhibit A.

D. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like

Approved for Use 3/1/2021

professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

F. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

G. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

**2. Term of Agreement.** The term of this Agreement shall be from the Effective Date through December 31, 2024, unless sooner terminated as provided in Section 12 of this Agreement or extended. The Public Works Director or his/her designee may extend the term of the Agreement in writing for up to two additional one-year terms, or such other term not to exceed two years from the date of termination, pursuant to the same terms and conditions of this Agreement. If not renewed prior to the termination date, this Agreement may continue on a month-to-month basis under the same terms and conditions for a maximum period not to exceed six months or until renewed, terminated or awarded to a new consultant, whichever is less.

**3. Compensation.**

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the Approved Fee Schedule attached hereto as **Exhibit B**. In no event shall Consultant be paid more than \$22,908.00 (the "Maximum Compensation") for such Services.

B. Expenses. The amount set forth in paragraph 3.A. above includes reimbursement for all expenditures incurred in the performance of this Agreement.

C. Unauthorized Services and Unanticipated Expenses. City will not pay for any services not specified in the Scope of Services, unless the City Council or the City Representative, if applicable, and the Consultant Representative authorize such services in writing prior to Consultant's performance of those services or incurrence of additional expenses. Any additional services authorized by the City Council, or (where authorized) the City Manager shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. At the request of the Consultant, the City Council may, in writing, reimburse Consultant for an unanticipated expense at its actual cost. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

#### **4. Method of Payment.**

A. Invoices. Consultant shall submit to City an invoice, on a monthly basis, for the Services performed pursuant to this Agreement. Invoices must be submitted to Bianca Cardenas, bcardenas@manhattanbeach.gov. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

**5. Independent contractor.** Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

#### **6. Information and Documents.**

A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena,

notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Consultant's permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

**7. Conflicts of Interest.** Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

**8. Indemnification, Hold Harmless, and Duty to Defend.**

A. Indemnities.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses,

liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be

limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

## **9. Insurance.**

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-

insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages

required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Broader Coverage/Higher Limits. If Consultant maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

## **10. Mutual Cooperation.**

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

**11. Records and Inspections.** Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

## **12. Termination of Agreement.**

A. **Right to Terminate.** City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. **Obligations upon Termination.** Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

**13. Force Majeure.** Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

**14. Default.**

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

**15. Notices.** Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and City's regular business hours, or (c) three

Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO CITY:

City of Manhattan Beach  
Attn: Public Works,  
Engineering Department  
3621 Bell Avenue,  
Manhattan Beach, California 90266

TO CONSULTANT:

IDS Group  
1 Peters Canyon Road, Suite #130  
Highland Avenue, Irvine, CA 92606  
(949) 387-8500

COPY TO CITY ATTORNEY:

City of Manhattan Beach  
Attn: City Attorney  
1400 Highland Avenue  
Manhattan Beach, CA 90266

**16. Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

**17. Prohibition of Assignment and Delegation.** Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

**18. No Third Party Beneficiaries Intended.** This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

**19. Waiver.** No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

**20. Final Payment Acceptance Constitutes Release.** The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

**21. Corrections.** In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

**22. Non-Appropriation of Funds.** Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

**23. Exhibits. Exhibits A and B** constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

**24. Entire Agreement and Modification of Agreement.** This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive

statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

**25. Headings.** The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

**26. Word Usage.** Unless the context clearly requires otherwise, (a) the words “shall,” “will” and “agrees” are mandatory and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” or “including” are not limiting.

**27. Time of the Essence.** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

**28. Business Days.** “Business days” means days Manhattan Beach City Hall is open for business.

**29. Governing Law and Choice of Forum.** This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

**30. Attorneys’ Fees.** In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys’ fees, experts’ fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

**31. Severability.** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

**32. Counterparts.** This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

**33. Corporate Authority.** Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

*[SIGNATURE PAGE FOLLOWS]*

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,  
a California municipal corporation

Consultant:

IDS Group, Inc., a California corporation

DocuSigned by:  
*Bruce Moe* 8/23/2022  
By: D1A13C56864A441  
Name: Bruce Moe  
Title: City Manager

DocuSigned by:  
*Said Hilmy* 8/16/2022  
By: 39EC260EC4D2467  
Name: Said Hilmy  
Title: President

ATTEST:

DocuSigned by:  
*Liza Tamura* 8/24/2022  
By: 975D2FE89D8446B  
Name: Liza Tamura  
Title: City Clerk

DocuSigned by:  
*Rami Elhassan* 8/16/2022  
By: 1043D41E14374AD  
Name: Rami Elhassan  
Title: Secretary

APPROVED AS TO FORM:

**PROOF OF AUTHORITY TO BIND  
CONTRACTING PARTY REQUIRED**

DocuSigned by:  
*Quinn Barrow, City Attorney* 8/23/2022  
By: C24C6E263545445  
Name: Quinn M. Barrow  
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:  
*Steve Charelian, Finance Director*  
By: 3801E6D7B4124E9  
Name: Steve S. Charelian  
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:  
*Erick Lee* 8/18/2022  
By: 8FDAAFB234CA492  
Name: Erick Lee  
Title: Public Works Director

## **EXHIBIT A SCOPE OF SERVICES**

Project: Seismic Evaluation Lot 3 Parking Structure- Revised

### **Background:**

The Lot 3 Parking Structure at 1155 Morningside Drive in Manhattan Beach, California, is located on a level terrace approximately 1,400 feet east of the shoreline of the Pacific Ocean. This parking facility was built in 1971 and was designed for a parking capacity of 135 vehicles. This parking structure mainly serves the nearby shops, restaurants, and offices.

The parking structure is constructed of structural concrete flat slabs supported by steel beams and girders on the second and third levels. Steel columns support the girders. The first level consists of a concrete slab-on-grade. In the north-south direction, the lateral force resisting system consists of concrete masonry shear walls on both ends of the structure. In the east-west direction, the lateral force resisting system in the upper story consists of a single line of steel braced frames in the center of the structure. The forces from these frames are transferred to two concrete masonry shear walls which are offset to the north of the braced frames at the first story. The columns and the concrete masonry walls are supported by shallow concrete spread and continuous footings.

In 2017, IDS was retained by the City of Manhattan Beach to perform an ASCE 41-13 Tier 3 seismic evaluation of the Lot 3 Parking Structure. Our scope of work for this project included performing a detailed seismic evaluation of the structure and presenting our findings in a report. The findings were presented in a report entitled, "ASCE 41-13 Tier 3 Seismic Evaluation of Lot 3 Parking Structure", dated April 24, 2017.

As a result of this analysis, several seismic deficiencies were identified as non-compliant with the life safety seismic performance level. Besides the seismic deficiencies, IDS also noted several deterioration and accessibility and life safety deficiencies as listed in the Report. Cost of retrofit was identified, and measures of repair were discussed. Also, three (3) options for parking structure replacements were identified including construction of three levels above grounds (option# 1), five (5) levels above ground (option #2), and three (3) levels above and two (2) below (option #3).

### **Scope of Work:**

The objective of this project can be outlined as follows:

**Task #1:** Provide an updated report to the April 24, 2017 Seismic Evaluation report of Lot 3 Parking Structure performing a thorough review of all existing as-built drawings, reports, and consultant assessments. Research and identify any and all local, State and Federal laws and regulations that will impact the project. It is noted that since the time of

writing the previous report there was an update of the seismic evaluation guidelines, which is currently specified in ASCE 41/17 national guidelines. Site visits will be performed by IDS to assess the current conditions.

**Task #2:** Provide updated cost opinions for the three (3) structure replacement options included in the 2017 report, and at least two (2) additional options for subterranean replacements, including estimates for the number of parking spaces in each option. The cost includes the soft and hard cost of the projects including all A/E design requirements such as ADA, Elevator, Stairs, utilities, etc.

**Task #3:** Provide recommendations for interim needs if demolition of the current structure takes 3-5 years to start.

**Task #4:** Attend meetings with City staff (Zoom), and 1 in-person 6:00PM City Council meeting in the City of Manhattan Beach.

**Project Timeline:** Tasks 1 to 3 are expected to complete within 8 weeks from the Agreement's Effective Date.

## EXHIBIT B APPROVED FEE SCHEDULE

### Fee Proposal & Schedule

We are proposing to conduct our consulting engineering services on a Lump Sum basis for an amount of **\$22,908.00** (twenty-two thousand nine hundred and eight dollars) including reimbursable expenses. The breakdown of charges is as follows:

	Parking Structure Investigation Fees	Principal	Project Manager	Structural Engineer	Professional Engineer	Cost Estimator	Designer	Office Clerical	Others	Total
Task	Billing Rates \$/hr	\$204.00	\$179.00	\$156.00	\$132.00	\$144.00	\$97.00	\$60.00		
1	Updated Report using ASCE 41-17	2	4	16			2	2		\$3,934.00
2	Updated cost and layouts of five options of new construction	4	16	24		40	10	0		\$14,154.00
3	Recommendation for immediate repair needs	2	4	8						\$2,372.00
4	Meeting with the City- Zoom and City Council Evening Presentation	4	8							\$2,248.00
5	Reimbursables								\$200.00	\$200.00
	Total Hours	12	32	48	0	40	12	2		
	Total Fee	\$2,448.00	\$5,728.00	\$7,488.00	\$0.00	\$5,760.00	\$1,164.00	\$120.00	\$200.00	\$22,908.00

AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF MANHATTAN BEACH AND IDS GROUP, INC.

This First Amendment (“Amendment No. 1”) to that certain agreement by and between the City of Manhattan Beach, a California municipal corporation (“City”) and IDS Group, Inc., a California corporation (“Consultant”) (collectively, the “Parties”) is hereby made effective as of the date of the last authorized representative signature below (“Effective Date”).

RECITALS

A. On August 23, 2022, the City and Consultant entered into an agreement for professional services for the Consultant to provide Seismic Evaluation of the Lot 3 Parking Structure (“Agreement”);

B. The Parties now desire to amend the Agreement to increase the Maximum Compensation, extend the term, and modify the Scope of Services and Approved Fee Schedule.

NOW, THEREFORE, in consideration of the Parties’ performance of the promises, covenants, and conditions stated herein, the Parties hereby agree as follows:

Section 1. Section 2 of the Agreement is hereby revised to extend the term of the Agreement through December 31, 2026, unless sooner terminated as provided in Section 12 of the Agreement.

Section 2. Section 3.A of the Agreement is hereby revised to increase the Maximum Compensation amount by \$14,000, for a new Maximum Compensation of \$ 36,908.

Section 3. Exhibit A (“Scope of Services”) of the Agreement is hereby amended to add the attached Exhibit A of this Amendment No. 1.

Section 4. Exhibit B (“Approved Fee Schedule”) of the Agreement is hereby amended to add the attached Exhibit B of this Amendment No. 1.

Section 5. Except as specifically amended by this Amendment No. 1, all other provisions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have executed this Amendment No. 1 on the day and year of the last authorized representative signature shown below.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

Consultant:

City of Manhattan Beach,  
a California municipal corporation

IDS Group, Inc.,  
a California Corporation

DocuSigned by:  
By: Bruce Moe, City Manager  
Name: Bruce Moe 7/23/2024  
Title: City Manager

DocuSigned by:  
By: Said Hilmy, President  
Name: Said Hilmy 7/17/2024  
Title: President

ATTEST:

DocuSigned by:  
By: Liza Tamura, City Clerk  
Name: Liza Tamura 7/24/2024  
Title: City Clerk

DocuSigned by:  
By: Rami Elhassan, Secretary  
Name: Rami Elhassan 7/17/2024  
Title: Secretary

APPROVED AS TO FORM:

DocuSigned by:  
By: Quinn M. Barrow, City Attorney  
Name: Quinn M. Barrow 7/23/2024  
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:  
By: Steve S. Charelian, Finance Director  
Name: Steve S. Charelian 7/17/2024  
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:  
By: Erick Lee  
Name: Erick Lee 7/17/2024  
Title: Public Works Director

## **EXHIBIT A SCOPE OF SERVICES**

The Amendment No. 1 services include, but are not limited to the following:

### Task 1 – Site Visit

Perform site visit to verify structural current conditions.

### Task 2 – Update Report and Cost Estimate

Prepare an updated Report that confirms the 2022 ASCE 41-17 analysis (considering any recent updates to the code and ASCE standard). The report should also include an assessment of the structure's current condition and recommendations. One round of review comments is accounted for from the City.

### Task 3 – Meeting with the City – Zoom and City Council Evening Presentation

Attend meetings. One Zoom meeting with City staff and one public meeting is accounted for.

### Task 4 – Additional Services

Provide additional professional services for unforeseen services related to the Project as necessary. For this task, a Task Proposal will be prepared by IDS for the City's approval in writing before any work is initiated. Each Task Proposal shall also contain an estimated cost for the task and a not-to-exceed amount, which shall include all labor, costs, and expenses.

The City will not reimburse the following expenses:

- Hotel, Meals, and Airfare.  
The City will not reimburse for lodging, meals, mileage or transportation for the Consultant or its agents. This includes no reimbursement for travel time to and from the City.
- Entertainment/Personal Services.  
Under no circumstances are expenses related to entertainment (i.e., theater tickets, sporting events, etc.) or personal services (i.e., dry cleaning, haircuts, etc.) reimbursable.
- Printing and Photocopies.  
All printing and photocopying costs shall be included in the not to exceed fees.
- Incidental Expenses.  
There will be no reimbursements for deliveries/transmittals, telephone expenses or equipment rental/purchases.
- Proposal Preparation Costs.  
The City will not reimburse the Consultant for any costs associated with the preparation of a proposal.

### Time of Performance

Completing Tasks 1 to 3 is expected within three weeks of receiving the Notice to Proceed.

**EXHIBIT B  
APPROVED FEE SCHEDULE**

Amendment No. 1 Fee Proposal & Schedule

The breakdown of charges is as follows:

	Parking Structure Investigation Fees	Principal	Project Manager	Structural Engineer	Cost Estimator	Office Clerical	Other	Total
Task	Billing Rates \$/hr	\$222.17	\$195.47	\$170.35	\$157.25	\$65.52	-	-
1	Site Visit	2	4	4	0	0	0	\$1,907.62
2	Update Report and Cost Estimate	2	8	16	8	2	0	\$6,122.74
3	Meeting with the City – Zoom and City Council Evening Presentation	2	12	2	0	0	0	\$3,130.68
4	Additional Services	0	0	0	0	0	\$2,838.96	\$2,838.96
	Total Hours	6	24	22	8	2	0	
	Total Fee	\$1,333.02	\$4,691.28	\$3,747.70	\$1,258.00	\$131.04	\$2,838.96	\$14,000.00

AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF MANHATTAN BEACH AND IDS GROUP, INC.

This Second Amendment (“Amendment No. 2”) to that certain agreement by and between the City of Manhattan Beach, a California municipal corporation (“City”) and IDS Group, Inc., a California corporation (“Consultant”) (collectively, the “Parties”) is hereby made effective as of the date of the last authorized representative signature below (“Effective Date”).<sup>6/8/2026</sup>

RECITALS

A. On August 23, 2022, the City and Consultant entered into an agreement for professional services for the Consultant to provide Seismic Evaluation of the Lot 3 Parking Structure (“Original Agreement”).

B. On July 24 2024, the City and Consultant entered into Amendment No. 1 to increase the Maximum Compensation, extend the term, and modify the Scope of Services and Approved Fee Schedule.

C. The Original Agreement as amended by Amendment No. 1, is hereinafter referred to as the “Agreement.”

D. The Parties now desire to amend the Agreement to increase the Maximum Compensation, extend the term, and modify the Scope of Services and Approved Fee Schedule.

NOW, THEREFORE, in consideration of the Parties’ performance of the promises, covenants, and conditions stated herein, the Parties hereby agree as follows:

Section 1. Section 2 of the Agreement is hereby amended to extend the term of the Agreement through December 31, 2028, unless sooner terminated as provided in Section 12 of the Agreement.

Section 2. Section 3.A of the Agreement is hereby amended to increase the Maximum Compensation amount by \$32,264, for a new Maximum Compensation of \$69,172.

Section 3. Exhibit A (“Scope of Services”) of the Agreement is hereby supplemented by the Exhibit A attached to this Amendment.

Section 4. Exhibit B (“Approved Fee Schedule”) of the Agreement is hereby supplemented by the Exhibit B attached to this Amendment.

Section 5. Except as specifically amended by this Amendment No. 2, all other provisions of the Agreement shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, the Parties hereto have executed this Amendment No. 2 on the day and year first shown above.

City:

Consultant:

City of Manhattan Beach,  
a California municipal corporation

IDS Group, Inc.,  
a California Corporation

Signed by:  
By: Talyn Mirzakhanian, City Manager  
Name: Talyn Mirzakhanian  
Title: City Manager  
Date: 6/8/2026

DS  
By: SH  
Name: Said Hilmy  
Title: President  
Date: 6/5/2026

ATTEST:

DocuSigned by:  
By: Liza Tamura, City Clerk  
Name: Liza Tamura  
Title: City Clerk  
Date: 6/9/2026

Signed by:  
By: Rami Elhassan, Secretary  
Name: Rami Elhassan  
Title: Secretary  
Date: 6/5/2026

APPROVED AS TO FORM:

DocuSigned by:  
By: Quinn M. Barrow, City Attorney  
Name: Quinn M. Barrow  
Title: City Attorney  
Date: 6/8/2026

APPROVED AS TO FISCAL IMPACT:

Signed by:  
By: Libby Bretthauer, Finance Director  
Name: Libby Bretthauer  
Title: Finance Director  
Date: 6/6/2026

APPROVED AS TO CONTENT:

Signed by:  
By: Joe DeFrancesco, Interim Public Works Director  
Name: Joseph DeFrancesco  
Title: Interim Public Works Director  
Date: 6/4/2026

## **EXHIBIT A SCOPE OF SERVICES**

To further evaluate potential redevelopment options, the Consultant (or IDS) shall prepare a Feasibility Report for a new underground parking structure at the Lot 3 site, including the feasibility of linking a new underground structure to the existing Metlox underground parking structure.

The Feasibility Report will include developing up to three design concepts for a multi-level underground parking structure including structural floor depths, drive aisle widths, schematic parking stall layouts and vehicle circulation patterns. Options for two and three levels of underground parking will be developed and compared. Conceptual linkage to the existing Metlox parking structure will be included.

For the foundation design, a gravity load allowance will be added to include a generic two or three level above-grade steel framed commercial retail/office structure which could be constructed concurrently or later.

For underground vehicle traffic flow, the width of the excavation parallel to Morningside Drive is critical. In consultation with the City, IDS will evaluate the allowable excavation widths and underground retaining wall shoring systems. Based on this, IDS will develop an underground traffic flow plan including the required turning radiuses, ramp slopes, drive aisle widths, parking stall angles & widths, to quantify a vehicle parking capacity.

Conceptual location, size and number of the ADA parking stalls, elevator shaft and mechanical ventilation shaft for the underground car park will be included in this calculation as required by the California Building Code. Options for ADA parking stalls below grade will be included, and if feasible compared with ADA parking stalls at grade.

Amendment No. 2 services include, but are not limited to those tasks outlined below. Amendment No. 2 services include preliminary feasibility report tasks to readily begin City Council's immediate request for study which does not surpass the City Manager's signing authority. Thus, a subsequent Amendment No. 3 is expected to complete the feasibility study, following City Council approval.

### Task 1 – Kickoff Site Visit:

- IDS personnel will conduct one site visit in coordination with the City, to observe and document the existing conditions related to their discipline, including the limits of the Metlox underground parking structure. This site visit will include IDS architectural, structural, civil and cost estimating disciplines.

### Task 2 – Review Available Existing Drawings & Reports:

- Review the available existing drawings and reports provided by the City, including underground utilities, relevant geotechnical reports, and the Metlox parking structure construction drawings.

- The Metlox geotechnical report identifies three options for temporary shoring (sheet piles, soldier piles and tiebacks). At the City's request, IDS can remotely meet with the City to review excavation shoring options.
- Confirm with the City the property line limits and restrictions for constructing underground shoring (permanent retaining walls) along the adjacent streets, alleyway, and adjacent abandoned rooftop parking area. Coordinate with the City regarding noise and vibration limitations.

Task 3 – Additional Services (Unforeseen):

- Provide additional unforeseen professional services related to the Project as necessary and approved by the City. For this task, a Task Proposal will be prepared by IDS for the City's approval in writing before any work is initiated. Each Task Proposal shall also contain an estimated cost for the task and a not-to-exceed amount, which shall include all labor, costs, and expenses.

Time for Performance

The Consultant will work closely with City Staff to ensure that the Project is carried out in a timely manner. Tasks 1 and 2 of this amendment shall be completed by July 7, 2026 or sooner, unless otherwise authorized by the City Engineer in writing.

Exclusions

- Traffic engineering
- Public outreach
- Geotechnical Engineering

The City will not reimburse the following expenses:

- Hotel, Meals, and Airfare.  
The City will not reimburse for lodging, meals, mileage or transportation for the Consultant or its agents. This includes no reimbursement for travel time to and from the City.
- Entertainment/Personal Services.  
Under no circumstances are expenses related to entertainment (i.e., theater tickets, sporting events, etc.) or personal services (i.e., dry cleaning, haircuts, etc.) reimbursable.
- Printing and Photocopies.  
All printing and photocopying costs shall be included in the not to exceed fees.
- Incidental Expenses.  
There will be no reimbursements for deliveries/transmittals, telephone expenses or equipment rental/purchases.
- Proposal Preparation Costs.  
The City will not reimburse the Consultant for any costs associated with the preparation of a proposal.

**EXHIBIT B  
APPROVED FEE SCHEDULE**

AMENDMENT #2			ARCHITECT			STRUCTURAL ENGINEER		CIVIL/M.E.P. ENGINEER		PRE-CONSTRUCTION
SCOPE OF WORK	Total Hours	Total Fees	Principal Hrs (Said)	Assoc. Principal (John)	Project Architect	Project Manager (Steve)	Senior Engineer	Assoc. Principal	Engineer (PE)	Sr. Cost Estimator
			\$242	\$232	\$185	\$206	\$185	\$230	\$185	\$180
1. Kickoff site visit	48	\$9,784	4	4	8	8	0	8	8	8
2. Review available existing drawings & reports	64	\$12,480	2	4	16	8	16	4	12	2
3. Additional Services (Unforeseen)		\$10,000								
<b>TOTAL HOURS &amp; FEES (NOT-TO-EXCEED)</b>	<b>112</b>	<b>\$32,264</b>	<b>6</b>	<b>8</b>	<b>24</b>	<b>16</b>	<b>16</b>	<b>12</b>	<b>20</b>	<b>10</b>
			\$1,452	\$1856	\$4440	\$3296	\$2960	\$2760	\$3700	\$1800

Amendment #2 Amount (Not-to-Exceed):	\$32,264
Amendment #1 Amount:	\$14,000
Original Contract Amount:	\$22,908
<b>Amended Contract Amount (Not-to-Exceed):</b>	<b>\$69,172</b>

**IDS Group, Inc.  
2026 Rate Sheet**

<b>Architectural</b>		<b>Engineering</b>	
<b>Title</b>	<b>Hourly Rate</b>	<b>Title</b>	<b>Hourly Rate</b>
Principal	\$242.00	Principal	\$242.00
Associate Principal	\$232.00	Associate Principal	\$230.00
Senior Project Manager	\$221.00	Senior Project Manager	\$221.00
Project Manager	\$206.00	Project Manager	\$206.00
Senior Architect (RA)	\$201.00	Senior Project Engineer (SE)	\$201.00
Architect (RA)	\$185.00	Senior Project Engineer (PE)	\$196.00
Senior Designer	\$175.00	Engineer (SE)	\$196.00
Designer	\$165.00	Engineer (PE)	\$185.00
Job Captain	\$144.00	Senior Designer	\$175.00
BIM Designer	\$143.00	Designer	\$165.00
CAD Drafting	\$124.00	BIM Designer	\$143.00
Senior Planner	\$211.00	CAD Drafting	\$124.00
Planner	\$180.00	QA/QC Manager	\$217.00
Sr. Landscape Architect (PLA)	\$185.00	Senior Office Administration	\$77.00
Landscape Architect (PLA)	\$175.00	Administration and Accounting	\$72.00
QA/QC Manager	\$217.00		
Senior Office Administration	\$77.00		
Administration and Accounting	\$72.00		

<b>Preconstruction/Cost Estimation</b>	
<b>Title</b>	<b>Hourly Rate</b>
Senior Cost Estimator	\$180.00
Cost Estimator	\$175.00

Expenses such as, but not limited to, plan check fees, permits, inspections, testing services, title company fees, special delivery charges, plotting/ presentation boards, maps, aerial photographs, and reprographics/ illustrations that may be required for community or other stakeholder presentations shall be billed to the owner at the Consultant's direct cost plus 10%.