

DESIGN SERVICES AGREEMENT

This Design Services Agreement ("Agreement") is dated December 7, 2021 ("Effective Date") and is between the City of Manhattan Beach, a California municipal corporation ("City") and CWE, a California corporation ("Consultant"). City and Consultant are sometimes referred to herein as the "Parties", and individually as a "Party".

RECITALS

A. City issued Request for Proposals No. 1265-21S on September 7, 2021, titled "Santa Monica Bay TMDL High Flow Capacity Trash Treatment Control Devices Project". Consultant submitted a proposal dated October 14, 2021 in response to the RFP.

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 as an independent contractor 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 Design Services for the Santa Monica Bay TMDL High Flow Capacity Trash Treatment Control Devices Project, 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 Vik Bapna, Principal (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 by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

Approved for Use 3/1/2021

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

H. Prevailing Wages. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works", Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit C hereto."

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.

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 \$330,604 (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 Expenses. City will not pay for any services not specified in the Scope of Services, or reimburse for any expenses not set forth in **Exhibit B**, unless the City Council or the City Representative, if applicable, and the Consultant Representative authorize such services or expenses 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. Any additional expense authorized by the City Council or (where authorized) the City Manager shall be reimbursed in the amounts authorized by the City Council or City Manager. 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. 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, surveys, studies, drawings, plans, maps, models, photographs, discussion, or other information (collectively "Data and Documents") 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 and Documents 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 Data and Documents, including computer files containing Data and Documents generated for the Services, 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. Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless 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, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors,

material men, 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 design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

B. Other Indemnities.

1) Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, 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 "Claims"), 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 Claims 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 Claim 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 the 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 B.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 indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Claims 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'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 Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

C. Workers' Compensation Acts not Limiting. Consultant's 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.

D. 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 hold harmless and indemnification provisions in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, Claims, tax, assessment, penalty or interest asserted against City.

E. Survival of Terms. The indemnification in 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:

Attn: Tim Birthisel
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266
Telephone: 310-802-5368
Email: tbirthisel@citymb.info

TO CONSULTANT:

Attn: Vik Bapna
CWE
1561 E. Orangethorpe Avenue Suite 240
Fullerton, California 92831
Telephone: 714-526-7500 Ext. 212
Email: vbapna@cwecorp.com

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:

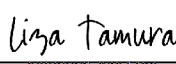
City of Manhattan Beach,
a California municipal corporation

Consultant:

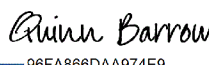
CWE
a California corporation

By:  11/29/2021
Name: ~~Bruce Moe~~ Erick Lee
Title: ~~City Manager~~ Acting City Manager

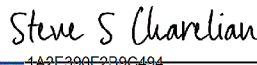
ATTEST:

By:  1/4/2022
Name: Liza Tamura
Title: City Clerk

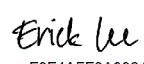
APPROVED AS TO FORM:

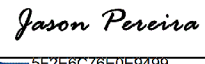
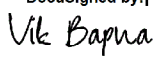
By:  12/23/2021
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

By:  12/8/2021
Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

By:  11/30/2021
Name: Erick Lee
Title: Public Works Director

By:  11/29/2021
Name: Jason Pereira
Title: Principal
By:  11/29/2021
Name: Vik Bapna
Title: Principal

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

EXHIBIT A SCOPE OF SERVICES



City of Manhattan Beach

Professional Design Services for the Santa Monica Bay TMDL High Flow Capacity Trash Treatment Control Devices Project

Work Plan

The CWE Team developed a Work Plan that fits the needs of the City and capitalizes on our teams vast experience and knowledge related to the Project. Our team has a track record of working together successfully on similar design projects, most recently the City of Los Angeles TOS 14 – Los Angeles River and Arroyo Seco Low Flow Diversion Projects, which included diversions, trash capture, design, and construction support. We look forward to discussing our approach with the City in greater detail.

Task 1: Project Management, Meetings, and Quality Control

Project management includes staff chartering, project coordination, management of subconsultants, and schedule and budget tracking. CWE will proactively engage the City with timely and concise communications and anticipates feedback at various stages of Project development. Open and result-driven communications will allow the Project to move forward in a productive and timely manner. We will conduct the following Project meetings virtually (Zoom with video cameras on) with the City and Project stakeholders:

- Kickoff meeting (agree on overall approach, obtain data, and understand expectations)
- Monthly progress meetings to discuss progress and status of the scope, schedule, and budget (five [5] anticipated) with the first meeting after the kickoff being used to discuss the design approach
- Community meetings (included under **Task 2**)
- City Council meetings to discuss the Project (assume one [1] meeting)
- Coordination with other agencies, utilities, and affected property owners to facilitate successful completion of the Project (included under **Task 3**)

We will prepare a sign-in sheet and agenda prior to each meeting. The agenda will be distributed at least one (1) day prior to the meeting. The agenda will serve as the basis for the meeting summary, which will be distributed to attendees within five (5) days of the meeting. Comments will be received for up to seven (7) days, with the summary being finalized following five (5) additional days. We will also maintain a table of action items, which will include key dates and responsibilities. A sample meeting agenda, summary, and table of action items is included with the proposal.

Documents and deliverables produced by the CWE Team will undergo internal Quality Assurance/Quality Control (QA/QC) processes, which will be documented in accordance with CWE's QA/QC procedures. A constructability review will be performed prior to design plan completion. CWE documents QA/QC reviews, comments, back checks, etc. and will supply this documentation to the City upon request.

Deliverables: Meeting agenda, sign-in sheet, and summary for the meetings identified above, except for the City Council meeting, (up to six [6]) and QA/QC documentation upon request.

Task 2: Public Outreach and Engagement

Public outreach is crucial, especially for projects that will impact residents and places regularly used by the public, such as the beach, The Strand, and other public use areas. It is important to inform the public of upcoming projects and outreach can be used to educate the community on water quality issues. We led outreach for the City as part of the 28th Street Storm Drain Infiltration Project and understand this community. Outreach and engagement will be used to share information on the Project rather than solicit feedback. We will also solicit resident knowledge, as this can help inform design decisions. The event goals are to obtain input on important issues and gain public understanding, acceptance, and support. We will work with the City to organize two (2) community meetings. We recommend having them in-person while providing a way for community members to join virtually too. We assume the City will secure a venue and distribute invitations (via mail, social media, etc.).

We will prepare a flyer/handout, presentation, and other reference material to share with the community. We assume the City will start a webpage that the community can be directed to (or a contact person). We will assist the City in developing language and content for their website and/or social media postings based on other documents and descriptions prepared for the Project.

Deliverables: Flyer/handout, presentation, reference material, and event summaries for up to two (2) public outreach and engagement events.

Task 3: Utility and Agency Coordination

CWE will conduct a utility search for the Project to identify existing or planned future utility conflicts within the Project areas where HFCTCD's are proposed. We will prepare and distribute a 1st Utility Notice on City letterhead to companies that own utilities in the Project area, which we will determine using our proprietary access to DigAlert records. The 1st Utility Notice will include preliminary Project notice and request for as-built record maps. We assume that the City will conduct the following notices, for which the design plans we prepare will be attached:

- 2nd Utility Notice: review and identify potential conflicts and need to relocate
- 3rd Utility Notice: notice to relocate, if applicable
- 4th Utility Notice: final notice to relocate immediately, if applicable

CWE will maintain a complete record log of utility contacts and responses and provide a copy of correspondence to the City upon completion of the 1st Utility Notice. We assume the City will provide as-builts for City-owned utilities. We will draw utilities based on information collected, which will serve as a base map on the design plans. If utility relocations are required for utilities not owned by the City, then those will be shown accordingly in our plans, while it is assumed the impacted utility owner would be responsible for design and construction of utility modifications.

We understand coordination may be required with adjacent cities/agencies along with utilities owners. We have assumed up to four (4) meetings with utility owners and/or local cities/agencies regarding Project coordination. This may include meetings with agencies issuing permits, as further described under **Task 8**. Agendas, sign-in sheets, and summaries will be prepared as described under **Task 1** for each meeting. The meetings are assumed to be virtual.

Deliverables: Utility search notices (1st Notice), contact logs, and meeting agendas, sign-in sheets, and summaries for up to four (4) meetings. Utility base maps prepared under this task will be used to support other deliverables.

Task 4: Background Research, Surveying, and Field Verification

Task 4.1: Background Research and Document Review

Research will be conducted for the Project locations to understand field conditions and how they will impact design. The following documents and types of resources will be reviewed as part of this task and an inventory of reference documents will be maintained:

- Utility as-builts (also described under **Task 3**)
- Street and local development as-builts
- Parcel, tract, and other record maps
- Santa Monica Bay Trash TMDL, MS4 Permit, and other regulatory references
- 2021 Storm Drain Master Plan, including Appendix E, which describes water quality improvements opportunities related to the master plan
- Sea Level Rise Risk, Hazards, and Vulnerability Assessment related to the potential impacts of sea level rise on the storm drain system

Field visits will be performed for each site to review the Project location and surrounding vicinity. Existing conditions and potential right-of-way challenges will be observed through the field visit. Utility locations will be confirmed in the field, if possible (including depth), such that potential conflicts can be avoided. Findings from the field visit will be documented in field notes. Photographs will also be taken, which will be made available to the City upon request.

Deliverables: Field notes, site photographs, and document review inventory will be made available to the City upon request.

Task 4.2: Topographic Survey

CWE will perform a topographic survey of the Project areas where HFCTCD's are proposed (up to six [6] locations), which will serve as the base map for the design plans. The survey will extend from right-of-way to right-of-way in the Project vicinity with additional buffer, such that improvements can tie in. If ADA ramps are included at a specific site, then the survey will extend to cover those improvements as needed. The survey will be prepared using United States customary English units in AutoCAD Civil 3D format. We will research County and City record data for centerline, right-of-way, easements, survey control, existing geodetic control, and design network plans. We will establish the horizontal and vertical survey control based on the local Global Positioning System (GPS) network. Existing monuments will be used to establish the centerline of street alignments and tract lot lines. Centerline monuments and ties will be displayed in the topographic survey. Topography will be georeferenced using the North American Datum from 1983 (NAD83), California Zone V for horizontal control and North American Vertical Datum from 1988 (NAVD 88) for vertical control. Geographic Information System (GIS) data will be used to identify catch basin improvements/point source implementation efforts and topographic survey will not be performed in those areas.

Deliverables: There are no direct deliverables associated with this task (will serve as base map for plans).

Task 5: Potholing

The CWE Team has budgeted to pothole for utilities that may conflict with Project implementation. The streets in which implementation is proposed are mostly narrow and congested with utilities. We will develop a list of potential utility conflicts, which will be reviewed with the City and team prior to determining whether potholing is necessary. We have included a potholing budget that we understand can be utilized at the City's direction based on our recommendations. It is assumed that the potholes will be distributed between the Project locations. We will contact DigAlert for the location of utilities within the public right-of-way prior to potholing. We assume that no drilling permits will be required to perform our field services and all permits will be issued to the City at no cost. Traffic control setup will conform to the Work Area Traffic Control Handbook (WATCH). We anticipate the budget can accommodate for up to 11 potholes to be conducted at an average depth of 10 feet, while the exact number will depend on their locations and depths. Potholes in paved areas will be repaired per City standards. Pothole reports will be generated and data collected will be incorporated into the design plans. Potholing information will be shared with applicable utility companies as needed.

Deliverables: Pothole report in electronic (PDF) format and data from report will be incorporated into plans.

Task 6: Geotechnical Exploration

The CWE Team will perform nine (9) soil characterization borings. It is assumed that each boring will be about 25 feet on average, while the depth will vary based on the boring location and proposed HFCTCD location and depth. The boring will extend past the expected construction depth and be used to identify groundwater levels near the Project site. CWE will supplement this data with recently collected geotechnical data from the 28th Street Storm Drain Infiltration Project and Beach Cities Green Streets.

Site contamination testing will be performed at Location 12 (Aviation Boulevard at Artesia Boulevard), as this is an area known to have past oil-related industries in the Project vicinity. Contamination testing will include Tph-cc, Volatile Organic Chemicals (VOCs), and organic lead.

Test samples will be collected during drilling in general accordance with the appropriate American Society for Testing and Materials (ASTM) methods. Standard Penetration Testing (SPT) and sampling using standard split-spoon or Modified California samplers will be performed at approximately 2.5-foot intervals for the upper 10 feet below ground surface, followed by samples at 5-foot intervals to the maximum depths drilled. Bulk samples will be collected for the upper soils encountered in each boring. Once the samples have been collected and classified in the field, they will be placed in appropriate sample containers for transport to the laboratory. The CWE team assumes that no drilling permits or traffic control will be required to perform these field services, except for a permit with the Los Angeles County Department of Public Health (LADPH) and traffic control at Location 12, and permits will be issued by the City at no cost. Traffic control will conform to WATCH. We assume encroachment permit fees from the City of Redondo Beach will be paid for by the City.

The samples will be tested in the laboratory to determine physical engineering characteristics. The findings will be summarized in a geotechnical report, which will include subsurface exploration procedures, soil conditions encountered, boring logs, groundwater levels (if encountered), and recommendations pertaining to pavement and earthwork.

Deliverables: Geotechnical Report in electronic (PDF) format.

Task 7: Final Design Services – Plans, Specifications, and Estimates (PS&Es)

Task 7.1: Hydrologic and Hydraulic Calculations

CWE will perform hydrologic and hydraulic calculations to support the design and sizing of the proposed HFCTTCD improvements. The one-year, one-hour peak runoff flow rate will be calculated for each HFCTTCD using the Rational Method, consistent with trash capture requirements. Additionally, hydraulic models will be developed using the Water Surface Pressure Gradient (WSPG) software for the existing storm drain systems. The existing storm drain system will be modelled and the results will be compared to a proposed condition model that incorporates the HFCTTCD. These models will be used to demonstrate the proposed improvements will not impact the mainline hydraulics. The model input/output and results will be summarized in a report, which will be submitted to LACFCD, as WSPG models will be

Task 7.2: Preliminary Design Approach

A preliminary design approach will be developed based on information reviewed and collected, as described in the tasks above. We will identify the recommended implementation to address each of the 12 HFCTTCD locations indicated in the RFP and described in the Project Understanding and Approach above. We anticipate our recommendations will include a combination of downstream treatment controls and catch basin devices. It is assumed that up to six (6) HFCTTCDs will be implemented, and the other areas will be addressed with point source catch basin implementation. Our recommendations will be documented in preliminary plan layout format and will be accompanied with a memorandum/fact sheet and discussion of the anticipated challenges at each location. Preliminary plan layouts will be developed for the HFCTTCD locations to confirm feasibility related to utilities (30% plans). The preliminary design approach graphics and reference material will be presented at one of the early progress meetings so that the City can confirm the approach prior to moving into the final design phase.

Deliverables: Preliminary design approach recommendation map will be presented at an early progress meeting.

Task 7.3: Design Plan Preparation

We will prepare 24-inch by 36-inch construction plans in AutoCAD format using a scale of 1-inch equals 20 feet. The different plan sheet types that are anticipated as part of this Project are identified below. The plan sheets for bidding and construction will be stamped by our experienced Project Manager, Vik Bapna, who is a registered Professional Engineer in the State of California. We recommend the selected contractor prepare excavation, shoring, traffic control, and phasing plans, as needed, based on the Project specifications, which we will review as a submittal during construction. We anticipate the complete plan set, which will include the 12 locations (6 locations with HFCTTCD and 6 locations addressed through point source implementation), will include up to 20 sheets.

- Title page
- General notes
- Improvement/site plan and details
- HFCTTCD details
- ADA ramp details
- Boring logs

The major Project components are identified below with additional information pertaining to the design. Each of the components will be **designed with O&M in mind**. The systems we design will consider ease of maintenance and we will work with the City's maintenance team to identify any concerns they may foresee.

- Storm drain diversions/connections
 - Avoid impacts to existing system hydraulics
 - Design structures based on LACFCD and City requirements
 - Consider impacts of sea level rise and storm inundation
 - Include standard sections and details in plans with table of site-specific information
- Trash capture system
 - Identify system to remove trash and debris from approved list
 - Size system for treatment and bypass
 - Include standard details in plans
- ADA improvements
 - Identify adjacent ramps that do not meet ADA requirements and bring to City's attention
 - Design new ramp to meet ADA requirements
 - Include details in plans
- Other improvements
 - Identify pavement and base thickness in areas where pavement will be cut/replaced
 - Design based on geotechnical exploration and recommendations
 - Include standard details and notes in plans

The plans will include the City's title block and the declaration included in the RFP will be shown on the plan as required. Plans will be submitted at the 60% and 100% (final) phases (electronically). Mylars will be produced for the final plans, which will be stamped and signed. It is assumed that trash capture approach will be finalized by the 60% phase. Comments received will be incorporated in the subsequent submittal and a response to comments will be used to document comments received from the City. The 60% plans will be submitted to LACPW for permitting, as described under **Task 8**.

Deliverables: 60% and 100% plans in electronic (PDF) format. One (1) stamped and signed mylar set will be produced for the 100% plans and AutoCAD files will be provided.

Task 7.4: Specifications

CWE will prepare specifications for the Project based on the latest edition of the American Public Works Association (APWA) Greenbook adopted by the City. We understand the City prefers the six digit Construction Specification Institute (CSI) format, which we will follow, while guidance from the Greenbook will be incorporated, as the CSI standard specifications do not cover all types of horizontal construction. We will review and use the City-provided front-end boilerplate template to prepare the Bid Specifications. Our package will include both Special Provisions and Technical Specifications. Draft and final specifications will be provided at the 60% and 100% submittals, respectively.

Deliverables: Bid Specifications based on the City's preferred format and template in electronic (PDF) format for the 60% and 100% plan submittals. Final Bid Specifications will be provided in editable (Microsoft Word) format.

Task 7.5: Cost Opinion

An independent opinion of probable cost will be prepared to accompany each of the design plan submittals (60% and 100%). The contingency will be higher during preliminary stages and will decrease as the plans become more detailed. The opinion of probable cost will identify the quantity takeoffs of major Project elements along with anticipated unit costs. The cost opinions will be prepared based on local references, past projects, and the engineer's best judgement. We will work with the City to agree upon a format, which may include estimating costs by location rather than for the Project overall.

Deliverables: Cost opinion at 60% and 100% phases in electronic (PDF) format (final version will be provided in Microsoft Excel format also).

Task 8: Construction Permits

CWE will assist the City in applying for and obtaining the permits described under this task. We understand a City encroachment permit will be required for the geotechnical exploration and potholing. We will work with the City to submit required documentation and assume the encroachment permit will be issued at no fee. We understand an encroachment permit will also be required from the City of Redondo Beach, as the Aviation Boulevard at Artesia Boulevard location adjacent to Redondo Beach. We will assist the City in engaging with the City of Redondo Beach to coordinate an encroachment permit for geotechnical explorations/potholing along with construction activities. We work closely with the City of Redondo Beach and Manhattan Beach as part of the Beach Cities EWMP Group, which will streamline the coordination process.

CWE will assist the City in coordinating with LACBH, LACFCD, and LACPW regarding their property and infrastructure. The County owns and operates the beach property, including El Porto Parking Lot and the Marvin Braude Bike Trail. Additionally, LACFCD owns and operates at least five (5) or the 12 storm drains being evaluated for HFCTCDs; therefore, a Connection Permit will be required. CWE has processed approximately 10 diversion connections with LACFCD in the last year alone. The connection permit has two parts. One part is the engineering review, and another is coordination regarding the Use and Maintenance Agreement (UMA). These two parts can be completed by the City and CWE during the design phase. The selected contractor will ultimately pull the permit using their contractor's license and bond information. CWE will submit the connection application with the 60% design plans on the EPIC Los Angeles platform for engineering review. We will link a City representative to the application process, which will allow the City to access comments online. We will prepare

an O&M Manual and exhibits to accompany the UMA (O&M Manual developed under **Task 9**). We will follow similar processes and use the same platform to coordinate with various LACPW departments for construction to move forward.

Most of the Project locations are within the Coastal Zone, requiring a California Coastal Commission (CCC) permit/approval. The City has their own Local Coastal Program (LCP) and we understand coastal development can be approved through the City's program rather than through the CCC directly. We have worked with CCC and the City's LCP previously and understand the process. It is assumed that the Projects will be implemented together and that separate permits are not required for each individual location. We assume the fees for permits/approvals from the City of Redondo Beach, CCC, and LACPW will be paid for by the City. Meetings with permitting agencies are included under **Task 3**.

Deliverables: Permit applications and supporting documentation for City encroachment permit, City of Redondo Beach encroachment permit, LACPW permits/approvals, and CCC permit. We have assumed up to two (2) submissions of each package.

Task 9: Operation and Maintenance

The Project design will consider capital costs along with short- and long-term O&M costs. We understand the Project locations are in a coastal environment and must be highly durable and resistant to graffiti, weather, and vandalism. CWE will prepare a Draft Project O&M Manual based on the recommended design approach, which will be used to project O&M costs and will support LACPW permitting/approvals, as mentioned in the task above. We will include an anticipated schedule of replacement over a 50-year period. O&M Manual attachments for major components will be left blank so that data included in submittals during construction can be inserted into the plan. CWE will project O&M costs based on regional data and findings, as several similar systems have been implemented by the City and other local jurisdictions. We will quantify an approximate annualized cost for O&M based on the HCFTTCD/point source solution. We will finalize the O&M Manual once design is complete (likely during construction) based on the final components included, as required by LACPW.

Deliverables: Draft and Final O&M Manual with projected costs in electronic (PDF) format.

Task 10: CEQA Support

CWE understands the City is planning to prepare required California Environmental Quality Act (CEQA) documentation if the Project qualifies for a Categorical Exemption and that an environmental consultant under a separate contract would be used to prepare any additional CEQA documentation (if it was not categorically exempt). We have prepared several mitigated negative declaration (MNDs) for similar projects, including the City of San Fernando Regional Park Infiltration and City of Culver City Washington Boulevard Public-Private Partnership (P3) Urban Runoff Diversion projects, and understand the process. CWE will support the City and their environmental consultant with Project information. We anticipate providing up to the following background information to the environmental consultant so that they can prepare environmental studies and documentation:

- Project description
- Project boundary (in AutoCAD and/or Geographic Information System [GIS] format)
- Depth of excavation for proposed infrastructure

Deliverables: Supporting documents (up to those described above) pending the City's CEQA approach and data request.

Task 11: Bid Phase Assistance

CWE will support the City during the bid process by responding to Requests for Information (RFIs) or questions on the design plans and specifications submitted by potential contractors during the bid phase to support the preparation of addenda. We will support the City in gathering required documentation to post on PlanetBids as part of the solicitation (plans, specifications, bid instructions, and other reference documents). We will attend a pre-bid meeting if the City chooses to have one. We assume printing of PS&Es will be done by others if needed and is not included as part of this task. We assume the City will perform the bid analysis to determine the lowest responsive bidder.

Deliverables: Responses to bidders questions in electronic format.

Task 12: Engineering Services During Construction

CWE will provide the services summarized in the table below during construction.

Task Element	Description and Assumption
Pre-construction meeting	Attend the pre-construction meeting to assist the City in providing general Project information and being available to respond to technical questions
Submittal review	Review and respond to up to eight (8) submittals related to specific design features within 10 working days (unless specified otherwise in Project specifications)
RFIs	Review and respond to up to two (2) RFIs within 10 working days (unless specified otherwise in Project specifications)
Field visits/meetings	Attend up to 4 field reviews/meetings (upon request) to explore, discuss, and brainstorm solutions related to construction issues
Supplemental documentation	Support the City in supplying the contractor with supplemental documentation to clarify the design or issues encountered during construction
Record drawings (as-builts)	Prepare record (as-built) drawings based on the Contractor-provided markup in AutoCAD and PDF format within 60 calendar days of receiving redlines

Deliverables: Submittal response, RFI responses, notes from field visit/meetings, and record drawings in mylar, PDF, and AutoCAD formats.

Assumptions

- Up to six (6) HCTTCDs will be designed (remaining six [6] areas will be addressed through multiple point source solutions)
- Point source solutions will be incorporated into the plans using a GIS/tabular format (topographic survey not required)
- Meetings will be held virtually with video functionality (Zoom)
- City will secure venue and distribute invitations for in-person public outreach events
- Door-to-door canvassing will not be used as part of the outreach program
- Utility relocations will not be required and/or would be led by others (such as the utility owner)
- City will distribute 2nd and subsequent Utility Notices and convey information back to CWE
- One single package will be developed for the Project, resulting in a single set of plans, specifications, permits/approvals, etc.
- City's LCP can be used to meet coastal development requirements (rather than submitting to CCC)
- City will file a Categorical Exemption to meet CEQA requirements
- Improvements will be outside of the Porto Parking Lot and County property (improvements will be located within City right-of-way or property)

B. Resource Allocation Matrix

Santa Monica Bay TMDL High Flow Capacity Trash Treatment Control Devices Project

Professional Service Fee

Prepared by CWE on 10/14/2021 (Revised 11/01/2021)

Task	Principal	Technical Manager	Task Leader	Principal Engineer	Senior Engineer	Project Engineer	Staff Engineer	Assistant Engineer	Licensed Surveyor	CAD Designer	Project Coordinator	Admin Assistant
	\$279	\$227	\$199	\$196	\$171	\$165	\$134	\$109	\$180	\$85	\$108	\$90
1 Project Management, Meetings, and Quality Control	30	16	14									
2 Public Outreach and Engagement	4		8				6					6
3 Utility and Agency Coordination	8		8					10		24		
4 Background Research, Surveying, and Field Verification												
4.1 Background Research and Document Review	6		9				6	6				2
4.2 Topographic Survey			4				6		86	36	2	
5 Potholing			2				3			6	1	
6 Geotechnical Exploration			3									
7 Final Design Services - Plans, Specifications, and Estimates (PS&Es)												
7.1 Hydrologic and Hydraulic Calculations	2		4	4	18		3	18				3
7.2 Preliminary Design Approach	2		8	3			20	12				
7.3 Design Plan Preparation	6	8	20	10	36	32	48	56		56	4	
7.4 Specifications	3		6									
7.5 Cost Opinion	1		5		3			10				
8 Construction Permits	3		8		6	8	12	10		7	1	3
9 Operation and Maintenance			5		8			12				3
10 CEQA Support												
11 Bid Phase Assistance	1	2	2		0							
12 Engineering Services During Construction	2		8		18	8				20	2	2
Total Fee and Hours	68	26	114	17	89	48	104	134	86	149	10	19

All Direct Expense Costs are billed at Cost + 10%

C. Project Schedule

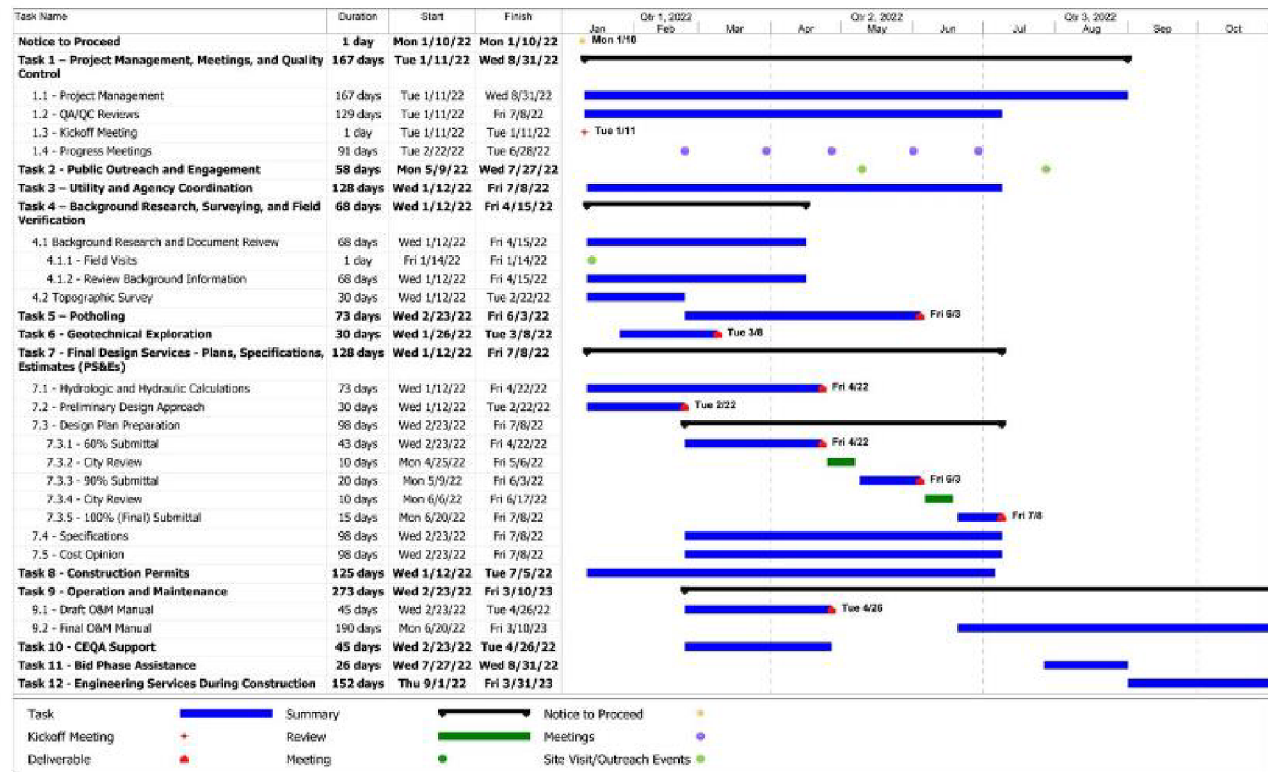


EXHIBIT B APPROVED FEE SCHEDULE

Santa Monica Bay TMDL High Flow Capacity Trash Treatment Control Devices Project
Professional Services Fee
Prepared by CWE on 10/14/2021 (Revised 11/01/2021)

Task	Total	Principal	Technical	Task	Principal	Senior	Project	Staff	Assistant	Licensed	CAD	Project	Admin	ODCs	Sub consultant	Sub consultant	Sub consultant
		\$279	\$227	Leader	Engineer	Engineer	Engineer	Engineer	Engineer	Surveyor	Designer	Coordinator	Assistant		C Below	Startec	Tetracon
1 Project Management, Meetings, and Quality Control	\$17,714	30	16	14													\$12,925
2 Public Outreach and Engagement	\$14,552	4		8				6					6				\$10,500
3 Utility and Agency Coordination	\$10,719	8		8					30		24			9940			\$2,835
4 Background Research, Surveying, and Field Verification																	
4.1 Background Research and Document Review	\$10,269	6		9				6	6				2				\$5,166
4.2 Topographic Survey	\$20,356			4				6		85	36	2					
5 Pot-holing	\$13,909			2				3			6	1			\$11,080	\$1,491	
6 Geotechnical Exploration	\$43,852			3												\$630	\$42,625
7 Final Design Services: Plans, Specifications, and Estimates (PS&Es)																	
7.1 Hydrologic and Hydraulic Calculations	\$16,093	2		4	4	18		3	18				3				\$8,743
7.2 Preliminary Design Approach	\$16,554	2		8	3			20	12								\$9,820
7.3 Design Plan Preparation	\$46,346	6	8	20	10	36	32	48	56		56	4		\$255			\$57,497
7.4 Specifications	\$14,421	3		6													\$12,390
7.5 Cost Estimate	\$6,353	1		5		3			10								\$3,476
8 Construction Permits	\$12,949	3		8		6	8	12	10		7	1	3				\$9,503
9 Operation and Maintenance	\$8,028			5		8			12				3				\$4,137
10 CDEA Support	\$890																\$890
11 Bid Phase Assistance	\$2,318	1	2	2		0											\$1,187
12 Engineering Services During Construction	\$20,281	2		8		18	8				20	2	2	\$255		\$11,362	
Total Fee and Hours	\$330,604	68	26	114	17	89	48	104	134	86	149	10	19	\$1,440	\$11,000	\$142,028	\$42,625

All Direct Expense Costs are billed at Cost + 10%

EXHIBIT C

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. Therefore, as to those Services that are “public works”, Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor’s Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit \$200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate

payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Contract pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit \$25.00 for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the

provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor’s compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor’s compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor’s expense with counsel reasonably acceptable to City) City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys’ fees, and other related costs and expenses. All duties of Contractor under this Section shall survive the termination of the Agreement.

AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MANHATTAN BEACH AND CWE

This First Amendment ("Amendment No. 1") to that certain agreement by and between the City of Manhattan Beach, a California municipal corporation ("City") and CWE, 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 December 7, 2021, the City and Consultant entered into an agreement for professional services for the Consultant to provide design services for the Santa Monica Bay TMDL High Flow Capacity Trash Treatment Control Devices Project ("Agreement");

B. The Parties now desire to amend the Agreement to increase the Maximum Compensation, extend the term, and modify the Scope of Services for additional services.

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, 2025, 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 \$14,392.00 for a new Maximum Compensation of \$344,996.00.

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

Section 4. Exhibit B (Approved Fee Schedule) of the Agreement is hereby to include Exhibit B attached to 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]

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.

City:

Consultant:

City of Manhattan Beach,
a California municipal corporation

CWE,
a California corporation

DocuSigned by:
By: Bruce Moe, City Manager
D1A13C66964A441... 2/20/2024
Name: Bruce Moe
Title: City Manager

DocuSigned by:
By: Vik Bapna, Principal/CEO
66663AA69B6141E... 2/15/2024
Name: Vik Bapna
Title: Principal/CEO

ATTEST:

DocuSigned by:
By: Liza Tamura, City Clerk
975B2FFB990440B... 2/20/2024
Name: Liza Tamura
Title: City Clerk

DocuSigned by:
By: Jason Pereira
3F2E6C76E0E9499... 2/15/2024
Name: Jason Pereira
Title: Principal/Secretary

APPROVED AS TO FORM:

DocuSigned by:
By: Quinn M. Barrow, City Attorney
C24C6E263545445... 2/20/2024
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:
By: Steve S Charelian, Finance Director
3801E6D7B4424E9... 2/16/2024
Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:
By: Erick Lee
0FDBA4FB284CA482... 2/15/2024
Name: Erick Lee
Title: Public Works Director

EXHIBIT A SCOPE OF SERVICES

The City met with a local resident on 1st Street who expressed some concern related to the location of the trash capture system on 1st Street relative to their driveway. CWE evaluated a few alternatives in relation to shifting the trash capture system varying distances to the west. Following the evaluation and cost assessment, the City, in coordination with the local residents, decided to shift the trash capture system approximately four feet west of the location shown in the final design plans.

CWE will incorporate the following changes, Task E, in addition to the tasks included in the original Project proposal and subsequent additional work requests.

Task E – Redesign of 1st Street

Design changes:

- Shift the diversion structures and trash capture system four feet to the west
- Update profile view with invert and surface elevations associated with the new location
- Section A will be updated with new elevations and depths
- Station limits pertaining to Los Angeles County Flood Control District (LACFD) permitting will be updated based on the new extent

Other support:

- Resubmit plans to LACFCD in relation to the Connection Permit (assume updated modeling will not be required due to a minor shift)
- Anticipate Use and Maintenance Agreement (UMA) may need to be modified slightly based on updated construction limits/stationing
- Update bid quantities (if applicable – anticipated in relation to utility work)
- City will lead utility coordination efforts with utility owners (such as Southern California Edison [SCE]), while CWE can update this proposal if the City prefers we lead related coordination

EXHIBIT B APPROVED FEE SCHEDULE

Task E - Fee Schedule

Task	Total	Principal	Project Manager	Project Engineer	Staff Engineer	Assistant Engineer
		\$330	\$283	\$184	\$163	\$122
Task E: Redesign of 1 st Street	\$14,392	2	20	12	24	16
Total:	\$14,392	2	20	12	24	16