

ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF RIALTO AND
KOURY ENGINEERING AND TESTING, INC.

THIS ON CALL PROFESSIONAL SERVICES AGREEMENT (herein "Agreement") is made and entered into this 15th day of November, 2022, by and between the City of Rialto, a municipal corporation and California general law city ("City"), and Koury Engineering and Testing, Inc., ("Consultant"). City and Consultant are sometimes individually referred to as "Party" or collectively as "Parties".

RECITALS

A. City has sought, by request for qualifications the performance of the services defined and described particularly in Section 1 of this Agreement.

B. Following the submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, Consultant was selected by the City to be eligible to perform those services as needed and requested by the City.

C. During the Term of this Agreement, the City may initiate or continue various projects for which Consultant's services may be used. For a given project, the City may solicit proposals from Consultant and other firms to perform services on that project, and the City may award a Task Order for the project based on availability, schedule, and cost proposal. Consultant understands and acknowledges that this Agreement provides no guarantee that Consultant will be selected to perform any volume or work for the City.

D. Pursuant to Chapter 2.48 of the Rialto Municipal Code, City has authority to enter into and execute this Agreement.

E. The Parties desire to formalize the selection of Consultant for the performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

Scope of Services. Consultant agrees to perform geotechnical services to provide staff support for various capital improvement projects, encroachment permit/utility construction, and on-site and off-site improvements associated with private land development projects within the City (hereinafter, the "Scope of Services" or "Services") as requested and authorized by the City. When the City desires to utilize Consultant for

the Scope of Services, the City will issue a Task Order, in a form that is substantially similar to Exhibit B, that includes a Scope of Services to be performed and the compensation to be paid for the Services within the Task Order. Upon the issuance of a Task Order, that Task Order shall immediately be incorporated into this Agreement as part of Exhibit "A" (e.g., the first Task Order will be Exhibit "A-1", the second Exhibit "A-2," etc.). Each Task Order is made a part of this Agreement by this reference and encompassed within the Scope of Services of this Agreement.

As a material inducement for City to enter into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, it meets all local, state, and federal requirements in performing the Services, and it is experienced in performing the work and Services contemplated herein. Consultant shall at all times faithfully, competently, and to the best of its ability, experience, and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and Services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more professional firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Agreement between the Parties shall consist of the following: (1) this Agreement, including the Recitals; (2) the Scope of Services, including all Task Orders; (3) the City's Request for Qualifications No. 22-051; and, (4) the Consultant's signed, original proposal submitted to the City ("Consultant's Proposal"), (collectively referred to as the "Contract Documents"). The Contract Documents and Accepted Proposal shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the Scope of Services, Consultant's Proposal, and/or this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all Services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any federal, state, or local governmental entity having jurisdiction in effect at the time service is rendered. In addition to the terms, conditions, and performance obligations for the Work set forth in this Contract, Consultant must also comply with the federal contract terms, conditions, rules, and regulations set forth in the attached Exhibit D ("**Federal Contract Terms, Conditions, and Regulations**").]

1.4 Licenses, Permits, Fees, and Assessments.

Consultant shall obtain, at its sole cost and expense, such licenses, permits, and approvals as may be required by law for the performance of the Services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Services required by this Agreement, and shall indemnify, defend, and hold harmless City, its officers, employees

or agents of City, against any such fees, assessments, taxes penalties, or interest levied, assessed, or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. If Consultant discovers any latent or unknown conditions that will materially affect the performance of the Services hereunder, then Consultant shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies, and/or other components thereof, to prevent losses or damages, and shall be responsible for all such damages to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Prevailing Wages.

Consultant is aware of the requirements of California Labor Code Section 1720, *et seq.* and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 1600, *et seq.*, ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. It is the understanding of City and Consultant that the Prevailing Wage Laws may not apply to this Agreement because the Agreement does not involve any services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder. However, Consultant shall defend, indemnify, and hold City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.8 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless specified in this Agreement, neither Party shall be responsible for the service of the other.

1.9 Additional Services.

City shall have the right at any time during the performance of the Services under an individual Task Order, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said work. No such extra work or change may be undertaken unless a written order is first given by the Contract Officer to the Consultant, describing in detail the extra work or change and the reason(s) therefor and incorporating therein any adjustment in (i) the Task Order sum for the actual cost of the extra work or change, and/or (ii) the time to perform the Task Order, which said adjustments shall be reflected in an amendment to the Task Order subject to the written approval of the Parties. Any amendment to a Task Order shall be reviewed and approved by the City Manager. In accordance with Rialto Municipal Code section 2.48.180, increases in compensation for a Task Order may be approved by the City Manager provided: (a) the initial Task Order amount was less than One Hundred Thousand Dollars (\$100,000) and the amended Task Order sum when considering any or all amendments will not exceed One Hundred Thousand Dollars (\$100,000); or (b) the Task Order was approved by the City Council and the increases in compensation taken either separately or cumulatively do not exceed One Hundred Thousand Dollars (\$100,000). Any greater increases, taken either separately or cumulatively must be approved by the City Council. Payment for additional services rendered by Consultant under a given Task Order requires the submission of the actual costs of Consultant's performance of the extra work with the invoice(s) for the extra work claim(s), as provided in Section 2.4. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors.

No claim for an adjustment in the contract amount or time for performance shall be valid unless the procedures established in this Section are followed.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT

2.1 Contract Sum.

City and Consultant acknowledge and agree that the Services required by this Agreement will vary dependent upon the number, type, and extent of the Services the Consultant shall provide; and no guarantee of the extent or the type of Services required of Consultant under the terms of this Agreement is made by the City. The annual or total level of Services required by this Agreement is unknown, and may significantly increase or decrease from year to year. In acknowledgement of the fact that the number and type of projects requiring the Consultant's Services has not been identified for this Agreement, City and Consultant acknowledge and agree that a specific "Maximum Contract Amount" shall be imposed on each separate project that the City may assign Consultant as provided in Section 1.9 and in this Section 2.1. Each such separate project shall be identified as a Task Order authorized by the City Manager or designee as provided in this Section 2.1. The Maximum Contract Amount of this Agreement is undefined, and is

subject to the number and type of projects requiring the Consultant's Services throughout the duration of the term of this Agreement, if any. Consultant's compensation shall be limited to the Maximum Contract Amount identified on each separate, individually authorized Task Order corresponding to a project requiring the Services of the Consultant in accordance with the Schedule of Compensation set forth in the attached Exhibit C. Subsequent approval of individual Task Orders shall be approved in accordance with the provisions of Chapter 2.48 of the Rialto Municipal Code.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the Services; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Unless otherwise specified by the Task Order, each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City may independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by

City, the original invoice shall be returned by City to Consultant for correction and resubmission.

2.5 No Waiver.

Review and payment by City to Consultant of any invoice for work performed by Consultant pursuant to this Agreement shall not be deemed a waiver of any defects in work performed by Consultant or of any rights or remedies provided herein or any applicable law.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

The Services authorized by each Task Order shall be completed pursuant to the schedule stated in the Task Order. Should the Services not be completed pursuant to that schedule, the Contractor shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Contractor to continue performing the Services.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall, within ten (10) days of the commencement of such delay, notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer shall extend the time for performance in accordance with the procedures set forth in Section 1.9. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Subject to the termination provisions of this Agreement, the Term of this Agreement is for three years commencing on the date first ascribed above. City may extend the Term of this Agreement two times for one year each time, for a total potential term of five years.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant ("Principals") are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Andrea Knight</u> (Name)	<u>Client Manager</u> (Title)
<u>Michele Shams</u> (Name)	<u>CEO/President</u> (Title)

It is expressly understood that the experience, knowledge, capability, and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the Principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform Services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or subcontractor of Consultant, Consultant shall, immediately upon a Reassign Notice from City of such desire of City, reassign such persons or persons.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care, or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be the City Manager or other such person designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode, or means by which Consultant, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. Consultant shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability, and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees, and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury, and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for both the Consultant and the City against any loss, claim, or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or Services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of, or related to Services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's Services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

(f) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees, and agents as additional insureds, and any insurance maintained by City or its officers, employees, or agents shall apply in excess of, and not contribute with, Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees, and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any Party

hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or Services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations, or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for

which Consultant is legally liable ("indemnitors"), arising from Consultant's reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents, or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents, or employees, any and all costs and expenses incurred by the City, its officers, agents, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional Services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness, or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

Notwithstanding the foregoing, to the extent that the Consultant's Services are subject to California Civil Code Section 2782.8, the above indemnity, including the cost to defend, shall be limited to the extent required by Civil Code Section 2782.8.

5.4 Sufficiency of Insurer or Surety.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an

increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager Consultant.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "books and records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or Services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without

liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) 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 there under. City retains the right, 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, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed, and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of San Bernardino, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, Eastern Division.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall proceed with payment on the invoices only when the default is cured. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct, or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event of termination without cause pursuant to this Section, the City need not provide the Consultant with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any

amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement or any individual Task Order subsequently awarded. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Additionally, pursuant to Rialto Municipal Code section 2.48.145, Consultant represents that it has disclosed whether it or its officers or employees is related to any officer or employee of the City by blood or marriage within the third degree which would subject such officer or employee to the prohibition of California Government Sections 87100 et. seq., Fair Political Practices Commission Regulation Section 18702, or Government Code Section 1090. To this end, by approving this Agreement, Consultant attests under penalty of perjury, personally and on behalf of Consultant, as well its officers, representatives, that it/they have no relationship, as described above, or financial interests, as such term is defined in California Government Section 87100 et. seq., Fair Political Practices Commission Regulation Section 18702, or Government Code Section 1090, with any City of Rialto elected or appointed official or employee, except as specifically disclosed to the City in writing.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, gender identity, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, sexual orientation, gender, gender identity, marital status, national origin, ancestry, or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or Services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorney's fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing of City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to computer, long distance telephone, network data, internet, or other communication charges, vehicles, and reproduction facilities.

9.2 Payment of Taxes.

Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any federal and state taxes.

9.3 Notices.

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by pre-paid First Class U.S. Mail, registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) three (3) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Any notice, request, demand, direction, or other communication sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered. Other forms of electronic transmission such as e-mails, text messages, instant messages are not acceptable manners of notice required hereunder. Notices or other communications shall be addressed as follows:

If to City: City of Rialto
 150 S. Palm Ave.
 Rialto, CA 92376
 Attn: City Manager

Tel: (909) 820-2525
Fax: (909) 820-2527

With copy to: Burke, Williams & Sorensen, LLP
1770 Iowa Avenue, Suite 240
Riverside, CA 92507
Attn: Eric S. Vail, City Attorney
Tel: (951) 788-0100
Fax: (951) 788-5785

If to Consultant: Koury Engineering and Testing, Inc.
14280 Euclid Avenue
Chino, CA 91710
Attn: Andrea Knight, Client Manager
Tel: (909) 606-6111
Fax: (909) 606-6555

Either Party may change its address by notifying the other Party of the change of address in writing.

9.4 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.5 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.6 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.7 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or

unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.8 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement on the date first written above.

CITY:

CITY OF RIALTO, a municipal corporation

By: _____
Marcus Fuller
City Manager

CONSULTANT:

KOURY ENGINEERING AND TESTING, INC. a California corporation

By: _____
Name
Title

ATTEST:

By: _____
Barbara A. McGee
City Clerk

By: _____
Name
Title

APPROVED AS TO FORM:

Burke, Williams & Sorensen, LLP

By: _____
Eric S. Vail
City Attorney

****Two signatures are required if a corporation****

EXHIBIT "A"

SCOPE OF SERVICES

Consultant shall provide On-Call Professional Geotechnical Services more described herein.


Consultant shall provide first-rate professional geotechnical services on an as-needed basis for various City projects as assigned. Responsibilities may include, but are not limited to, the following:

1. Provide complete and detailed geotechnical services in an expedited manner.
2. Evaluate geological and seismological hazards.
3. Geotechnical design parameters and grading recommendations.
4. Geotechnical supervision and oversight.
5. Soils, geological, seismic and geotechnical testing and preparation of reports and design recommendations.
6. Conducting compacted fill testing and monitoring.
7. Geophysical testing.
8. Construction oversight of excavation and compaction activities.
9. Inspection and preparation of surfaces to receive compacted fill.
10. Supervision and certification of the placement and compaction of fill including required compaction testing and reporting.
11. Geotechnical investigations to characterize materials and conditions to be encountered during construction.
12. Development of seismicity maps and recommendations.
13. Subsurface exploration (borings)
14. Lab tests of soil samples.
15. Recommendations for earthwork, seismic design, foundation design, structures settlement criteria, lateral earth pressures, soils corrosivity evaluation and mitigation measures and other relative design.
16. Coordination and submissions to the California Geological Survey (CGS), DSA and other AHJ for project approval and obtaining review and approval by applicable regulatory agencies.
17. Reporting shall be of such scope and detail as required by regulatory agencies and in accordance with CGS, DSA, current CBC code, CDE and shall be supervised by a registered geotechnical engineer or geologist, depending on the project.
18. Each firm shall be familiar with relevant codes pertaining to the assessment and remediation of geological, soils and seismic conditions relevant to determining the suitability for acquisition or new development.

Specifically, Consultant shall provide those Services as outlined in its proposal dated March 31, 2022, Included in the following pages.

TWO

UNDERSTANDING ON-CALL GEOTECHNICAL SERVICES



UNDERSTANDING OF ON CALL SERVICES

Koury's that the City of Rialto is seeking qualified professional firms to provide geotechnical services on an on-call basis. These services may include providing staff support for various capital improvement projects, encroachment permit/utility construction, and on-site and off-site improvements associated with private land development projects within the city. Koury also understands that the City intends to award one or more contracts for on-call geotechnical services with an initial term of three (3) years, with two (2) one-year extensions upon approval of the City Manager and mutual consent of the selected firms, for a total maximum of five years, unless mutually extended by the parties for more than five (5) years.

Koury understands the required Geotechnical Services including but not limited to the following:

1. Providing complete and detailed geotechnical services in an expedited manner.
2. Evaluating geological and seismological hazards.
3. Providing geotechnical design parameters and grading recommendations.
4. Providing geotechnical supervision and oversight.
5. Performing soils, geological, seismic, and geotechnical testing and the preparation of reports and design recommendations.
6. Conducting compacted fill testing and monitoring.
7. Providing geophysical testing.
8. Providing construction oversight of excavation and compaction activities.
9. Performing inspection and preparation of surfaces to receive compacted fill.
10. Providing supervision and certification of the placement and compaction of fill including required compaction testing and reporting.
11. Performing geotechnical investigations to characterize materials and conditions to be encountered during construction.
12. Providing development of seismicity maps and recommendations.
13. Performing subsurface exploration (borings)
14. Performing laboratory tests of soil samples.
15. Providing recommendations for earthwork, seismic design, foundation design, structures settlement criteria, lateral earth pressures, soils corrosivity evaluation and mitigation measures and other relative design.
16. Providing coordination and submissions to the California Geological Survey (CGS), DSA and other AHJ for project approval and obtaining review and approval by applicable regulatory agencies.
17. Assuring that reporting shall be of such scope and detail as required by regulatory agencies and in accordance with CGS, DSA, current CBC code, CDE and shall be supervised by a registered geotechnical engineer or geologist, depending on the project.
18. Providing staff who are familiar with relevant codes pertaining to the assessment and remediation of geological, soils and seismic conditions relevant to determining the suitability for acquisition or new development.

Koury will provide the necessary staffing level required to perform the scope of service of each project assigned in a timely manner in compliance with the industry and professional standards and all applicable federal, state, and local laws, ordinances, and regulations including the rules and ordinances of the County of San Bernardino and the City of Rialto.

Koury understands that the city will not provide dedicated workspace or office space, City staff, or City resources, printing or copying services, or clerical assistance for the performance of this agreement.

Koury has thoroughly reviewed the RFP in its entirety and is qualified to provide the above-mentioned services.

PROJECT METHODOLOGY

In general, our anticipated services will ascertain project quality compliance as well as assure construction quality and longevity. During this contract we anticipate providing material testing in accordance with ASTM, Caltrans, City and Greenbook standards for street, facility, and other capital improvements. Additionally, we can perform source inspection of miscellaneous items and fabricated products such as concrete, asphaltic concrete and aggregates used on the State highway system.

Koury foresees typical geotechnical services such as compaction testing, materials testing and special inspection, laboratory testing, site investigations, preparing geotechnical reports, pavement condition surveys, pavement section design, and grading observations. The coordination and management of these services is required. Review of project geotechnical reports, plans, specifications, special provisions and providing test data summary reports for each project.

Koury's approach to a successful project with the City of Rialto will begin with the selection of our team of individuals and their specific responsibilities. The project manager will select experienced and qualified field and laboratory personnel based on the specific project requirements. The first key element is developing an understanding of each project and the requirements necessary for success. This begins with our project manager and/or other appropriate personnel meeting early with City personnel and or their designated individuals to prepare formal tasks, workplans, milestones, expectations, and requirements.

Koury's project manager will schedule, coordinate, and facilitate daily testing and inspection activities for each project, he/she will be available to communicate with the City's project managers or their inspectors. The project manager will make sure each special inspector or technician is familiar with available project plans and specifications and is properly certified for the required work.

Koury will establish appropriate checklists to maintain product quality and control, along with employing a process whereby all the documentation is checked, corrected if necessary and rechecked, and all job correspondence and memoranda is routed and received by affected persons and then stored in the appropriate files.

Constant, concise, and effective communication between all parties on a project is always the most important key element to project success. Koury has learned that good direct communication can stop, avoid, or minimize problems on a project, saving our clients time, and money.

Koury will provide a single point of contact who will coordinate the scheduling of the field technician for testing and sampling with the city.

Koury's intentions are always to provide quality, prompt service. Industry standard allows that 24-hour notice be given for all field inspection services and we are always grateful for longer notice. However, being a mature inspection service provider, we realize that mishaps occasionally occur with scheduling and/or unforeseen weather, and sometimes short notice or immediate service is requested. More often than not, we are usually able to accommodate, and we are more than happy to provide you with the inspector.

FIRM QUALIFICATIONS WORK PLAN AND SCHEDULE

GENERAL GEOTECHNICAL ENGINEERING

Koury personnel have a proven wide variety of experience through successful completion of hundreds of projects for private and public clients. Koury has recently completed numerous projects for various cities in Southern California (e.g. Torrance, Bell, Brea, Orange, Corona, Long Beach, Riverside, Santa Monica). Through the performance of these projects and other projects Koury's personnel have acquired extensive experience with geotechnical subsurface exploration, groundwater evaluation and monitoring, monitoring well installation, percolation testing, shallow and deep foundation design and analysis, lateral earth pressure evaluation, slope stability analysis, landslide studies, tieback and soil-nail design, earth quantity calculations, instrumentation and monitoring, microtunneling studies, underpinning, pressure grouting, settlement and expansive soil evaluation, and preparation of comprehensive geotechnical reports.

In addition to performing their own geotechnical studies, Koury's geotechnical and engineering personnel, Principal Engineer, Jacques Roy, and Senior Project Engineer, Kurt Brown are responsible for reviewing other consultant geotechnical reports.

Prior to the start of observation and testing, the Field Engineer/Project Manager, Mike Mohajeran prepares a field file and an office file for the job that contain all the geotechnical reports and plans pertinent to the job. On a daily basis, the inspectors must prepare a daily report that is left on the job site. As a quality control measure, the Field Engineer/ Manager reviews and signs the inspector daily reports and their maps with the tests plotted.

ASSIGN

The second order of the work plan involves Koury's Field Engineer/Project Manager Mike Mohajeran and Operations Manager Raymond Roblero, working together to finalize the organization chart, assigning duties to staff and creating a new entry in our custom project tracking software for quality control purposes. Upon each awarded project Koury's management team will effectively execute each task per project to assist in organization and management. Koury utilizes a custom project tracking software to record correspondence, client requests and any other project related information for quality control purposes. This software is critical in assisting in providing guaranteed quality control over our services delivered to the client including recorded phone calls between dispatch and client for reliability of requests and clarification purposes. In addition to the aforementioned activities in the second order, Koury's Operation Manager, Raymond Roblero will assign highly skilled, multi-certified inspectors to perform deputy inspection services, enabling one inspector to perform inspections on a multiple of services described above. Koury anticipates assigning multiple inspectors that fit the above criteria for all potential project types listed. This ability creates continuity in the projects and eliminates redundancy providing additional cost savings to the City. Each Koury deputy inspector is equipped with the necessary tools to complete their task for any project under this RFP and Koury anticipates the use of pick-up truck for sample retrieval and the possibility for various non-destructive testing equipment. Koury believes in working with the client to perform in a manner to create cost saving opportunities by anticipating and dedicating the necessary resources.

MANAGE

Third order of the work plan starts with the kick off for each awarded project under this RFP; our Field Engineer/ Project Manager, and Operations Manager Raymond Roblero, will implement planning from the second order and manage the project through documenting all communication with the City Representative, tracking the project progress and providing quality control oversight to maintain the City's overall satisfaction. Koury's dispatch team will serve as the point of contact for all scheduling of testing and inspection needs; while our Project Coordinator, will serve as the point of contact for all administrative related needs. In the third order dispatch will coordinate all field duties with the Operations Manager, Raymond to ensure proper quality control, adherence to a set project specific budget, confirm scope of services and maintain effective team communication. As part of the third order the Project Coordinator, will coordinate budget updates, requests for information, change orders (if needed), and organize meetings with Engineers and the entire City Project Team. Throughout the duration of any project under our consultant agreement, Koury's Field Engineer/Project Manager, Operations Manager and Project Coordinator will be available to attend project meetings or any other event as needed.

PAVEMENT TECHNOLOGY

With the millions of miles of paved road in Southern California, the construction of new pavement and rehabilitation of existing pavement is constantly on going. Koury personnel have worked on hundreds of projects requiring design of flexible and rigid pavements, design of pavement pavers and porous pavement. Koury also performs visual survey of pavement, deflection survey, pavement rehabilitation study, and design of overlay.

Typically our construction services begin with the subgrade where we observe and test the soil removals, scarification, recompaction of the subgrade, and backfilling to subgrade level for new street construction, street widening, street repair, sidewalks, or driveways. Our technician will observe the earthwork operation and will test the subgrade and the backfilling for moisture and relative compaction. The technician will subsequently sample the aggregate for laboratory testing and will test in the field for moisture and compaction. For asphalt, the technician will check the tack coat application and will sample the asphalt, observe the asphalt laydown and field test the asphalt for temperature and relative compaction. Samples will be brought in the laboratory and tested for maximum density and for oil content, gradation or other tests at the discretion of the City's representative. Asphalt is also frequently cored to determine the density/unit weight.

SURFACE MAPPING AND SUBSURFACE IMAGING

With the increasing addition to existing streets, roadways, parking areas, public facilities, and the improvement, addition and rerouting of existing utilities, there is an increasing demand for better surface mapping/surveying and subsurface imaging to locate underground utilities. Koury's sister company, CBelow, has acquired the latest technology to locate underground utilities, for potholing, and for inspection inside buried pipes to determine their conditions. Koury also has the capabilities to locate post-tensioned cables, conduits and rebar reinforcement in concrete.

GEOTECHNICAL CONSTRUCTION OBSERVATION & TESTING

As part of daily activities, Koury personnel perform construction observation and testing. These activities may range from the most complex slope stabilization to the simplest trench backfill testing. On a routine basis, our field personnel perform observation and testing during mass grading, utility trench backfill, retaining wall backfill, earth structure construction, excavation of footings and slabs, presoaking of flatwork subgrade, pavement

subgrade, base and surfacing, and piles installation. Our field personnel is assisted by registered geologists and engineers for more complex construction such as tieback, stability of excavation, soil nailing and anchoring, shoring installation, ground improvements, and stabilization structures.

GRADING OBSERVATION AND TESTING

We routinely perform construction observation, field testing, and soil and material sampling. The construction observation and testing team consisting of Caltrans certified technicians, is headed by a Field Engineer/Project Manager, with several years of observation and testing experience. The Field Engineer/Project Manager attends the pre-grade meeting with the contractor and the City's representative. Our technicians are selected based on the needs of the project and their prior experience. If significant earthwork is involved, the Field Engineer/Manager will spend some time on site during the first few days of grading to verify that the soil conditions are as anticipated and the technician questions as well as those of the contractor are answered. We routinely work with the Greenbook and Caltrans Standards. Our technicians are versatile using ASTM, Caltrans or the Corps of Engineers testing methods depending upon the project requirements.

TECHNICAL MANAGEMENT AND REPORT PREPARATION

Upon completion of laboratory testing and engineering analysis, the Senior Project Engineer, prepares a comprehensive geotechnical report containing a description of the work performed, a field exploration location map, the field and laboratory data collected, a description of the subsurface conditions, explanation of the proposed development and grading, geologic settings, seismic hazards, building code parameters, anticipated total and differential settlements and corrosion potential at the site. The geotechnical report provides recommendations for site preparation, earthwork, remedial removals, slope inclination, compaction requirements, support of floor slabs, support of building walls and columns, retaining structures design, and flexible and rigid pavement design. The Principal Engineer in charge, Jacques Roy, reviews and approves the calculation package from the engineer and the geotechnical report for conformance with the standards of practice.

SOIL TESTING PROCEDURES

Field density tests are performed in accordance with the sand cone test method and/or nuclear gauge following the ASTM standards. All field testing is performed in substantial conformance with the project documents and as directed by the City or Caltrans. The quantity of testing and inspection is a function of the contractor(s) and subcontractor(s) efficiency, requirements of the City or Caltrans, weather conditions during construction, and as discussed with the City Project Manager and City Inspectors.

CONSTRUCTION INSPECTION SERVICES

Our services are based on the City's representative informing our dispatch to schedule an inspection. As the first step for every new inspection job, one of our office engineers reviews the soils report, drawings and specifications. On the first day of field work the Field Engineer/ Project Manager discusses the specifications with the assigned field technician. The dispatch will coordinate the assignment of the most appropriate technician for the job with the project manager and schedule a technician for inspection and testing services. All phone conversations into dispatch are recorded for quality assurance purposes so that we can ensure the highest quality of service to clients and resolve any situations that need clarification.

Koury requires inspectors and technicians to complete daily reports outlining all inspections and observations

performed and samples taken. Any deficiencies or concerns will be noted and the City's authorized representative will be presented with the report at the end of each working day. All our technician's reports are scanned into our computer system and filed electronically by project number and date. Hard copies of the daily reports are kept on file to make all documents easily available for review and report preparation. A distribution of a PDF version of daily reports is also possible.

SETTLEMENT ANALYSIS AND MITIGATION

Settlement analyses are commonly required for most structures, roadway and channel embankments. We routinely perform settlement analysis and provide recommendations for mitigation. The most common form of settlement mitigation is overexcavation. However, we have also used light weight fill, ground improvements such as pressure grouting, stone columns, soil cement mixing, and deep foundations to mitigate settlement.

DEWATERING AND SETTLEMENT MONITORING

Since dewatering increases effective stress, it can cause settlement. It is often advisable to monitor settlement during dewatering to avoid distress to existing structures or to determine when excessive settlement may occur. Settlement monitoring may also be used to check the rate of fill embankment consolidation and consolidation of native soil under structural loads. To monitor settlement we have used surface monuments, manometer systems, settlement plate in deep boreholes, and extensometers.

SLOPE STABILIZATION AND LANDSLIDE MAPPING

Landslides, deep or shallow, are prone to occur along drainage channel due to erosion and undermining of slopes. Landslides are also common in weak bedrock formations in Orange County. Our geologists and engineers have been mapping different types and sizes of landslides for various fill and bedrock conditions. For landslide stabilization we have been using various methods, including buttresses, tiebacks, soil nailing, soil cement, soil reinforcement with geosynthetic, slope flattening, drainage, rock bolting and a combination of these depending upon site specific conditions.

LABORATORY SUPPORT

We have in house laboratories to test the samples obtained from our field investigation and monitoring work. Our laboratories are Caltrans, AMRL and Corps of Engineer certified. The sealed samples, obtained from the field exploration, are brought in Koury's laboratory for further classification and testing. Upon arrival to the laboratory each sample is logged into our tracking software and a laboratory program is prepared. The laboratory program is reviewed with the Principal Engineer in charge prior to submittal to the laboratory. As each test is completed the results are cataloged and logged into the computer. During this process Matthew Perry monitors the completion of the tests and confirms that the appropriate tests procedures were followed. Quality assurance is performed by the Senior Project Engineer, Jacques Roy on the laboratory test results prior to performing the analyses.

QUALITY CONTROL AND ASSURANCE

As a quality control measure, the construction observation and testing is headed by our well-seasoned Operations Manager, Raymond Roblero with several years of construction observation and testing experience with Caltrans procedures. The Operations Manager attends meetings with the Contractor and City representative, as necessary. The Operations Manager reviews and approves the technician daily reports. During construction,

the Operations Manager, Raymond Roblero makes site visits to verify that the work is performed in accordance with the standards and answers questions if needed. The inspectors are also supported by the office engineers. The Field Engineer/Manager keeps track of the nuclear gauge calibrations and leak tests as well as the sand cone calibration.

During construction, samples are obtained in accordance with Caltrans, and ACI procedures, depending upon the material sampled, and brought to Koury's laboratory for further evaluation and/or testing. Upon arrival to the laboratory, each sample is logged into our tracking software and a laboratory testing program is prepared by the Project Engineer (PE). As each test is completed the results are cataloged and logged into the computer. During this process the PE monitors the completion of the tests and confirms that the appropriate tests have been performed per the approved testing procedures prior to releasing the results.

The appropriateness of our laboratory procedures are verified through yearly independent recertification of our laboratory personnel and equipment calibration program. Our laboratories are AASHTO, DSA, AMRL, CALTRANS and US Corps of Engineers certified. Our peer and management reviews further contribute to quality control and quality assurance.

GEOTECHNICAL & PAVEMENT EVALUATION REPORTS

Prior to delivery of a proposal for a project, we conduct an initial site assessment to obtain crucial information for preparing a proposal. Using general information about the structure, we review its location on the Seismic Hazard Zones prepared by the Department of Conservation Division of Mines and Geology to see if a liquefaction or an earthquake induced landslide study is warranted. We then review Alquist-Priolo Fault Zones to establish the potential for surface rupture due to fault plane displacement propagating to the surface at the site during the design life of the project. We use software such as PlanSwift, which assists in obtaining the footprint area of proposed developments and comply with code requirements and industry standards to estimate the number and depth of borings needed for the investigation. The number and depth of borings will allow us to come to a not-to-exceed budget for our investigation projects and a proposal is submitted. Once Koury has obtained approval from the City, we will request for a meeting with the project design team and the City to review the specific scope and conditions of the site under investigation. We then conduct a preliminary site reconnaissance to observe accessibility for a drilling rig and mark boring locations. After the boring locations are marked we order a utility locating inspection and the correct drilling equipment to ensure that utilities are not harmed during drilling and that borings are obtained in the needed locations. If we are conducting a pavement evaluation investigation within an existing roadway segment, we would also provide the necessary traffic control.

ERROR FREE DELIVERABLES

The first step is to ensure that all the tasks are well defined by the City of Rialto representative and understood by Koury team. Koury's approach to avoid errors in deliverables is to have a schedule and work plan in place, and to follow the work plan with quality assurance check points, and using check list as necessary. Once the plan is in place and the tasks are well defined, Competent and experienced personnel are appropriately selected for each task. An Engineer who has not worked on the project, is assigned to perform an independent technical review and quality assurance. An independent administrator is to check the assembly of the deliverables prior to issuance. Koury strives to prepare in advance to avoid last minute rushes.

GEOTECHNICAL INVESTIGATIONS

For investigation work, Koury prepares a proposal which serves as a work plan. This involves of assembling a team, preparing an exploration layout, writing the proposal, and getting buyout by the City of Rialto prior to performing the investigation.

a) Koury team. Koury assembles a team of geologists and engineers to respond to the investigation request. The team determines if the request has all the basic information required for the investigation. If some information is missing, Koury engineers will contact the City of Rialto representative to determine if additional information is available.

b) Exploration program layout. Published geological maps and reports, hazard maps (liquefaction, landslide), groundwater maps, and site aerial photographs are reviewed. The purpose of this review is to determine the anticipated subsurface conditions in order to select appropriate methods of subsurface exploration, equipment and to assess the required depth of the field exploration points. At that time, a site visit is made to confirm access and validate the procedures for the field exploration.

c) Proposal preparation. The proposal outlines the understanding of the project, anticipated subsurface conditions, scope of work, estimated fee and schedule. The proposed field exploration is described in detail along with the proposed laboratory testing, type of analysis, and the anticipated content of the report. The Principal Engineer in charge reviews the proposal for quality assurance before it is forwarded to the City of Rialto.

d) City of Rialto review. The City of Rialto reviews the proposal, asks for clarification if necessary, or issue an authorization to proceed. Upon receiving authorization, Koury schedules the field exploration, the maps provided by the City are used to check for utility locations, the areas for exploration are marked, Underground Service Alert is notified of Koury intention to excavate and of our request to clear the exploration point locations.

e) Performance of exploration. The field exploration subcontractors are retained, scheduled and a safety program is prepared. Any required permits such as boring permit or encroachment permit are applied for at that time. Prior to performing the field exploration, the field geologist or engineer meets with the Principal Engineer in charge to confirm the details of the field exploration, including safety, sampling (SPT, California sample and bulk samples), depth of exploration, backfilling, cleanup, permits and communication during the field exploration.

f) Laboratory testing. The sealed samples, obtained from the field exploration, are brought to Koury's laboratory for further classification and testing. Upon arrival to the laboratory, each sample is logged into our tracking software and a laboratory program is prepared by the project engineer (PE). The laboratory program is reviewed with the Principal Engineer in charge prior to submittal to the laboratory supervision. As each test is completed the results are cataloged and logged into the computer. During this process the PE monitors the completion of the tests and confirms that the appropriate tests have been scheduled per the exploration plan. The laboratory program most frequently includes moisture content, unit weight, consolidation, shear, corrosivity, gradation, #200 sieve wash, Atterberg Limits, and R-value; the number and type of tests depend on the material encountered, soil variation and conditions, and the intent of the study. Quality assurance is performed on the laboratory test results by the Senior Engineer prior to performing the analyses.

g) Analysis. Using the data from the boring logs and laboratory testing, the project engineer performs necessary analyses to determine static and seismic settlements, liquefaction potential, bearing capacity, lateral and vertical capacity of piles, pavement design, lateral pressure and lateral resistance for retaining walls, etc., depending upon the project needs.

h) Report preparation. Upon completion of laboratory testing and engineering analysis, the Senior Engineer prepares a comprehensive geotechnical report containing a description of the work performed, a field exploration location map, the field and laboratory data collected, a description of the subsurface conditions, explanation of the proposed development and grading, geologic settings, seismic hazards, building code parameters, anticipated total and differential settlements and corrosion potential at the site. Also, the geotechnical report provides recommendations for site preparation, earthwork, remedial removals, slope inclination, compaction requirements, support of floor slabs, support of building walls and columns, retaining structures design, and flexible and rigid pavement design. The Principal Engineer in charge reviews the calculation package from the engineer and the geotechnical report for conformance with the standards of practice.

i) City of Rialto feedback. At the City of Rialto preference, a pdf copy of the report is submitted in a “draft form” for the design team review. The review comments are subsequently incorporated into the report prior to finalization. The report is distributed by our in-house distribution center to an approved predetermined distribution list.

j) Design plan review. Once the structural and civil drawings are finalized, they are submitted to the Geotechnical Engineer to verify that the recommendations of the geotechnical report have been incorporated into the design. The Geotechnical Engineer and Engineering Geologist review the plans for general conformance with the geotechnical report recommendations, and sign the plans if needed.

For investigation relating to mold and hazardous materials, Koury’s staff is supplemented with personnel from outside consultant that have worked with Koury on similar projects in the past.

GEOTECHNICAL CONSTRUCTION

During construction, the Field Project Engineer manages the project through documenting all communication with the City of Rialto, tracking the project progress and providing quality control oversight to maintain the City of Rialto overall satisfaction. Koury’s dispatch team serves as the point of contact for all scheduling of testing and inspection needs while the Project Coordinator, serves as the point of contact for all administrative related needs. Throughout the duration of the project Koury’s PM attends scheduled project meetings as needed. The first step of the work plan for construction activities is to assemble a construction observation and testing team.

a) Construction team. The construction observation and testing team, consisting of several ICC certified technicians, is headed by a Field Supervisor and a Field Engineer, both with several years of observation and testing experience. Either the Field Supervisor or the Field Engineer and the PM attend the pregrade meeting with the contractor and the City of Rialto representative. The construction schedule and needs of the project are normally discussed at the meeting. Our technicians are assigned to the project based on the needs of the project and the technician prior experience. The Field Supervisor or Field Engineer will spend some time on site during the first few days of grading to verify that the soil conditions are as anticipated and

the technician questions as well as those of the contractor are answered.

b) Testing procedures. Field density tests are performed in accordance with the sand cone test method and/or nuclear gauge following the ASTM standards. Each batch of sand purchased is calibrated. All field-testing is performed in substantial conformance with the project documents, as directed by the , project architect, or structural engineer. The quantity of testing and inspection is a function of the contractor(s) and subcontractor(s) efficiency, requirements of the building official, and weather conditions during construction.

c) Documentation. Prior to the start of observation and testing, the Field Engineer prepares a field file and an office file for the job that contain all the geotechnical reports and plans pertinent to the job. On a daily basis, the technician must prepare a daily report that is left on the job site. As a quality control measure, the Field Supervisor reviews and signs the technician daily reports and their maps with the tests plotted. The reviewed dailies are forwarded to the accounting department and PM for further processing. Electronic copies of the dailies are provided on a weekly basis to the client representative when requested.

d) RFI. During construction, there may be questions from the contractor or designers, or changes from the designers. A Senior Geotechnical Engineer or a Principal Engineer is assigned to answer these questions, and to provide additional recommendations as needed.

e) Laboratory support. Koury in house laboratories support the field observation and testing. Laboratory personnel are allowed to work overtime to support the field operation as needed. The most frequent tests performed during geotechnical construction are maximum density on soil, aggregate, and asphalt, expansion index, gradation and sand equivalent.

f) On going quality control and quality assurance. During construction, the Senior Geologist or Field Engineer makes unscheduled site visits to verify that the work is performed in accordance with the standards and to answer questions if needed. The technicians are also supported by the office engineers.

g) Ongoing management. Our management team performs supervision and coordination of all field and laboratory services. Our clerical staff assists in maintaining a high level of quality assurance in preparation of reports, presentation of test results and observations. Engineering consultation is available as needed or as requested.

h) Invoicing for construction observation and testing. Prior to sending invoices to the City of Rialto, the PM reviews the invoices according to the contract terms and any approved change orders. The invoices are forwarded to the distribution department where they are matched with the corresponding week's dailies and test results. The invoice packages are distributed to the predetermined distribution list.

i) Project closeout. Upon completion of the project, the PM works in conjunction with the project closeout department and the City of Rialto representative to verify that all services are completed and accounted for. If requested by the City of Rialto, a geotechnical compaction report is prepared by our Senior Project Engineer and reviewed by the Principal Engineer. The report is distributed to the predetermined distribution list and the PM updates the tracking software indicating the project completion. Our PM coordinates with the City of 's representative to close the project, collect outstanding invoices and ensure satisfaction. Once the project is closed, it will remain in our archives for 10 years.

COST CONTROL AND SCHEDULING

Our first step to control cost is to assign experienced personnel with the tasks. We then assign a time schedule to each task. Once the time is up, the work must be delivered. We will assign highly skilled, multi-certified inspectors to perform deputy inspection services, enabling one inspector to perform inspection on multiple disciplines, which in turn saves our client money by cutting down the number of inspectors in the field daily. Our services will be performed at the request of an authorized City representative, who will be responsible for coordinating our services within the construction schedule. We request at least 24-hours advance notice prior to the time of our services, in order to meet the project needs. However, we will make every attempt to provide personnel, providing the personnel are available, for last minute requests for an expedited fee. Koury's scheduling of inspectors and technicians is dependent upon the Construction Schedule; however, our seasoned staff is skilled at sensing problems and constraints before they occur and offering timely resolutions to problems as they happen.

SCHEDULE, COST AND QUALITY CONTROL PROCEDURES

All our geotechnical investigations and pavement evaluation projects start with a proposal that gives an expected schedule for project delivery and an expected budget. The schedule will be discussed with the City's representative so that all parties remain informed. Because our expected investigation and evaluation cost estimates are based on our experience in completing numerous municipal projects within the last 5 years, the City can rest assured that we will remain within budget for all investigation reports, review of geotechnical investigations and pavement evaluations.

Koury's Lab/QC QA Manager, Mr. Kameron Moinian, maintains our laboratory certificates and ensures that all tests are being completed according to industry and regulatory agencies standards. Supervision and coordination of field and laboratory services will be performed by the operations manager and the quality assurance/quality control Lab manager on almost a daily basis.

BUDGET CONTROL

Koury uses Salesforce™ customer relationship management (CRM) software to track all projects. As your project starts, Salesforce™ enables our team to follow all the stages of your project. This allows our project managers to track the available budget in alignment with the remaining schedule. Our project managers review their project budget and schedule status weekly to ensure that everything is on track and address any anomalies as they arise.

Koury presents an itemized budget summary on a monthly basis with their invoices, ensuring complete visibility on the project's testing and inspection budget. The project manager will notify the City on any discrepancies, and will alert the appropriate representative when we are within 25%, 50% and 75% of the original allocated budget.

At each budget milestone the manager will assess the available budget in alignment with the remaining schedule. If a scope item (i.e. Shop Welding) is going to run over, and adversely affect the overall project budget our project manager will notify the City. Then a meeting may be scheduled to discuss the additional hours required to complete the scope item. This allows you to make adjustments in the budget as required. Further, Koury will not exceed the contracted budget without an approved change order from the City or an authorized representative.

EXHIBIT B

MODEL TASK ORDER

TASK ORDER NO. [REDACTED]

CITY OF RIALTO

AND

[REDACTED]

SECTION 1 – PURPOSE

The purpose of this Task Order is to authorize and direct [ADD CONSULTANT NAME] (“Consultant”) to perform with the Scope of Work specified in Section 2 below, in accordance with the provisions of the On-Call Services Agreement between the City of Rialto (“CITY”) Consultant dated [ADD DATE] (“Agreement”). This Task Order shall be incorporated into Exhibit A of the Agreement.

SECTION 2 – SCOPE OF WORK

The services authorized by this Task Order are presented in Attachment “A” – Scope of Services, which is attached hereto and incorporated by this reference.

SECTION 3 – COMPENSATION AND PAYMENT

Compensation shall be paid as provided in the Agreement. The total compensation for Scope of Services as set forth in Section 2 shall be as set forth in Attachment “B” – Compensation, which is attached hereto and incorporated by this reference. Total compensation for all services provided under this Task Order shall not exceed [ADD MAXIMUM TASK ORDER AMOUNT].

SECTION 4 – TIME OF PERFORMANCE

The services described in Section 2 of this Task Order shall be completed in accordance with the schedule set forth in Attachment “C” – Schedule of Completion, which is attached hereto and incorporated by this reference.

SECTION 5 – ITEMS AND CONDITIONS

All terms and conditions contained in the Agreement are incorporated by reference and remain in full force and effect.

Approved this [REDACTED] day of [REDACTED] 202[REDACTED].

[SIGNATURES ON NEXT PAGE]

CITY OF RIALTO

By: _____
 Marcus Fuller
 City Manager

Date: _____

CONTRACTOR

By: _____
 Name
 Title

Date: _____

By: _____
 Name
 Title

Date: _____

ATTEST:

By: _____
 Barbara A. McGee
 City Clerk

APPROVED AS TO FORM

By: _____
 Eric S. Vail
 City Attorney

ATTACHMENT “A”
SCOPE OF SERVICES

ATTACHMENT “B”
COMPENSATION

ATTACHMENT “C”
SCHEDULE OF COMPLETION

EXHIBIT “C”
SCHEDULE OF COMPENSATION



March 31, 2022

SCHEDULE OF FEES

Art Cervantes
City of Rialto, Public Works
150 S. Palm Avenue
Rialto, CA 92376

SUBJECT: RFP NO. 22-051 City of Rialto On-Call Services
KOURY PROPOSAL NO. 22-0165

Dear Mr. Cervantes:

Koury Engineering & Testing, Inc. (Koury) appreciates this opportunity to submit our qualifications to the City of Rialto for On-Call Geotechnical Engineering and Materials Testing services. Our objective is to support the City with highly experienced engineers, qualified inspection staff and our in-house Caltrans certified laboratory to ensure that the required quality control goals are met. Koury guarantees that all contents of our proposal will be valid for a period of 120 calendar days from the due date of this proposal (3/31/2022)..

Point of Contact: Andrea Knight, Client Manager
14280 Euclid Avenue, Chino, CA 91710
O| 909-606-6111 C| 760-605-8053 E| andreak@kouryengineering.com

CLOSING

Throughout the proposal process, Andrea Knight, Client Manager will be the City's main point of contact. She can be contacted by telephone at (760) 605-8053 or via email at: andreak@kouryengineering.com.

Regards,
KOURY ENGINEERING, INC.

A handwritten signature in blue ink that reads "Andrea Knight". The signature is fluid and cursive, written over a light blue rectangular background.

Andrea Knight
Client Relations Manager

DIR#1000007497



MASTER SCHEDULE OF FEES

Prevailing Wage

INSPECTORS

Materials Inspector	(Concrete, Masonry, Structural Steel and Welding, Fireproofing, Shotcrete)	\$	105.00	Per Hour
Building Inspector	(Wood Construction)	\$	110.00	Per Hour
Building Inspector	(MEP)	\$	110.00	Per Hour
Inspector of Record	(IOR, In-Plant, DSA/OSHDP)	\$	125.00	Per Hour
Specialty Inspector	(Glu-Lam Beams/Seismic Resistance/EIFS/Firestopping/Trusses at Fab Shop/Med Gas)	\$	Quote	Per Hour
Soils Inspector	(Soils, Asphalt, Piles)	\$	105.00	Per Hour
Soils Inspector	(LA Deputy Grading Inspector)	\$	95.00	Per Hour
Nuclear Gauge Equipment		\$	35.00	Per Day
Soils Inspector Mileage		\$.75	Per Mile
Soils Inspector Travel Time (portal to portal)			Equal to Rate of Service (Standard Overtime Rates Apply)	

NON-DESTRUCTIVE TESTING AND ADDITIONAL SERVICES

Lab Technician - 1 man & equipment (Torque, Pull, Pachometer, Schmidt Hammer, Coring)	\$	115.00	Per Hour
Asst. Lab Technician	\$	85.00	Per Hour
Non-Destructive Testing: UT, PT, MT	\$	140.00	Per Hour
Radiography Technician	\$	Quote	Per Hour
Radiography Truck	\$	195.00	Per Shift
Radiography Film	\$	0.15	Per Sq/In
Non-Destructive Testing: Couplant and Dye Penetrant	\$	60.00	Per gallon
Parking (if necessary)	\$	Cost Plus 20%	
Mileage	\$	0.75	Per Mile
Travel Time	\$	Equal to Rate of Service (Standard Overtime Rates Apply)	

FIELD EQUIPMENT CHARGE AND CONSUMABLES

Equipment - Torque Wrench	\$	65.00	Per Day
Equipment - Skidmore Bolt Tension Calibrator	\$	150.00	Per Day
Equipment - Skidmore Bolt Tension Indicator	\$	65.00	Per Day
Equipment - Multiplier	\$	15.00	Per Day
Equipment - Schmidt Hammer	\$	40.00	Per Day
Equipment - Dry Film Thickness Gauge	\$	40.00	Per Day
Equipment - Non-Shrink Grout Mold 2" Cube	\$	25.00	Per Day
Equipment - Slab Moisture Test Kit (Per Kit)	\$	35.00	Per Day
Equipment - Tile Test Kit (Per Kit)	\$	35.00	Per Day
Equipment - Unit Weight Kit: scale, bucket, plate, mallet, rod	\$	20.00	Per Day
Equipment - Air-Entrainment	\$	20.00	Per Day
Equipment - Windsor Probe	\$	15.00	Per Day
Equipment - Truck Charge	\$	55.00	Per Day
Equipment - Epoch	\$	Quote	Per Day
Equipment - Coring	\$	Quote	Per Day
Equipment - Relative Humidity Probes	\$	55.00	Per Probe
Isotope Depletion 314	\$	30.00	Each
Hazardous Waste Disposal	\$	27.00	Each

LABORATORY HOURS AND TESTING SERVICES

Laboratory hours are 7:00 a.m. through 4:00 p.m., Monday through Friday. Break results available at 8:00 a.m.
Additional charges will be made for off-hours, weekends or holidays as follows:

Off-hour Laboratory Operations per hour	\$	500.00	Per Hour
Saturday Laboratory Operations per hour	\$	500.00	Per Hour
Sunday or Holiday Laboratory Operations per hour	\$	750.00	Per Hour
Materials Pick Up Sample Trip Charge (2 hour Minimum)	\$	55.00	Per Trip
After Hours Pick Up Sample Trip Charge	\$	100.00	Per Hour

ASTM Physical Characteristics

SOIL AND AGGREGATE

C29	Unit Weight.....	\$	70.00	Each
D4829	Expansion Index	\$	150.00	Each
C117, D1140	#200 Wash	\$	100.00	Each
C136	Particle-Size Distribution - "Sieve" Analysis (retained on # 200 sieve)	\$	125.00	Each
D1140, D422	Particle-Size Distribution - Sieve Analysis + Hydrometer Combined	\$	210.00	Each
D4318	Atterberg Limits	\$	160.00	Each
D2435	Consolidation	\$	195.00	Each
D2419, CTM 217	Sand Equivalent Value of Soil and Fine Aggregate (Set of Three)	\$	125.00	Each Set
C127	Specific Gravity and Absorption (Coarse Aggregate).....	\$	125.00	Each
C128	Specific Gravity and Absorption (Fine Aggregate)	\$	170.00	Each
D854	Specific Gravity (Soil).....	\$	125.00	Each
D2216	Moisture Content.....	\$	25.00	Each
D3080	Direct Shear (3 Points).....	\$	265.00	Each
D3080	Direct Shear Remolded sample (3 points).....	\$	320.00	Each
D1557-A,B	Maximum Density	\$	200.00	Each
D1557-C	Maximum Density	\$	210.00	Each
D2844, CTM 301	R-Value (3 Points).....	\$	300.00	Each
CTM 229	Durability Index (coarse)	\$	375.00	Each
CTM 229	Durability Index (fine).....	\$	375.00	Each
C142	Clay Lumps & Friable Particles.....	\$	120.00	Each
D3744, CT 229	Durability Index for Coarse Aggregates	\$	375.00	Each

CHEMICAL PROPERTIES

CTM 643	Resistivity	\$	75.00	Each
CTM 643	pH	\$	60.00	Each
CTM 417	Sulfate	\$	60.00	Each
CTM 422	Chloride.....	\$	60.00	Each
CTM 643, 417, 422	Corrosivity Series.....	\$	185.00	Each

ASPHALT CONCRETE

C192	Review of Existing Mix Design	\$	175.00	Each
D136	Gradation of Extracted Sample	\$	70.00	Each
D1188	Unit Weight – Molded Specimen or Cores.....	\$	70.00	Each
D2726, D6926	Compacted Maximum Density – MARSHALL.....	\$	210.00	Each
D5581	Field Mix – Marshall – Stability Per Point.....		Quote	

CONCRETE

C39	Concrete Cylinders Compression Test (6" x 12")	\$	35.00	Each
C469	Concrete Cylinder Compression Test with MOE (Modulus of Elasticity)	\$	350.00	Each
C495	Lightweight Fill Concrete (3" x 6")	\$	35.00	Each
C42	Shotcrete/Gunite Cores, 6" Max. Diameter	\$	45.00	Each
C42	Gunite Cores, 6" Max. Diameter, w/ Core Trim	\$	45.00	Each
C42	In Laboratory Core Cutting.....	\$	50.00	Each
C157	Grout Shrinkage (3 Bars – Four Readings, Up to 90 Days).....	\$	250.00	Set
C567	Unit Weight of Hardened Light Weight Concrete	\$	75.00	Each
C567	Unit Weight of Hardened Light Weight Concrete (Oven Dry).....	\$	100.00	Each
C567	Equilibrium Density of Hardened Light Weight Concrete	\$	150.00	Each
C684	Rapid Cure Concrete Cylinders (Boil Method).....	\$	75.00	Each
C157	Drying Shrinkage (3 Bars – Four Readings, Up To 90 Days)	\$	250.00	Set
C495	Lightweight Fill Concrete Density.....	\$	35.00	Each
C138	Density (Unit Weight) of Concrete.....	\$	30.00	Each Set
C173	Air Entrainment Test (Volumetric Method).....	\$	35.00	Each Set
C231	Air Entrainment Test (Pressure Method – Non Lightweight Aggregate).....	\$	35.00	Each Set
C78	Flexure Test 6" x 6" Beams	\$	85.00	Each
C496	Splitting Tensile 6" x 12" Cylinders	\$	85.00	Each
F1869	Measuring Moisture Vapor Emission Rate	\$	35.00	Each
F2170	Relative Humidity Probe.....	\$	55.00	Each
A615	Chemical Analysis.....	\$	300.00	Each
F2170	Relative Humidity	\$	55.00	Each

MASONRY

BLOCK

C780	Mortar Cylinders (2" x 4")	\$	35.00	Each
C109	Mortar Cubes (2" x 2").....	\$	35.00	Each
C1019	Grout Prisms (3" x 6")	\$	35.00	Each
C1314	Grouted Prisms Compression (Masonry Assemblage) Test ≤8" x 8" x 16"	\$	95.00	Each
C1314	Grouted Prisms Compression (Masonry Assemblage) Test >8" x 8" x 12"	\$	195.00	Each
C140	Moisture Content as Received each	\$	50.00	Each

C140	Absorption, 3 Required	\$	40.00	Each
C140	Measurements	\$	30.00	Each
C140	Compression ≤8" x 8" x 16", Qty 3 Required	\$	45.00	Each
C140	Compression >8" x 8" x 16" Qty 3 Required	\$	55.00	Each
C426	Linear Shrinkage, Qty 3 Required.....	\$	80.00	Each
C42	Masonry Core – Compression	\$	55.00	Each
C42	Masonry Core – Shear.....	\$	75.00	Each
C42	In Laboratory Core Cutting.....	\$	50.00	Each
BRICK				
C67	Compression	\$	40.00	Each
C67	Modulus of Rupture.....	\$	50.00	Each
C67	Absorption, Soak.....	\$	30.00	Each
C67	Absorption, Boil.....	\$	30.00	Each
C67	Absorption, Saturation Coefficient.....	\$	40.00	Each
C67	Initial Rate of Absorption	\$	40.00	Each
C67	Efflorescence	\$	55.00	Each
C67	Efflorescence with Mortar.....	\$	65.00	Each
STEEL REINFORCING				
A615/A706	Tensile Up to No. 11 Bar	\$	65.00	Each
A615/A706	Tensile No. 14 Bar.....	\$	70.00	Each
A615/A706	Bend Test Up to No. 11 Bar.....	\$	65.00	Each
A615/A706	Bend No. 14 Bar	\$	70.00	Each
A615/A706	Bend / Tensile Test No. 18	\$	250.00	Each Set
A706	Chemical Analysis	\$	300.00	Each
A615/A706	Deformation Compliance	\$	55.00	Each
A615/A706	Cut To Size (for testing).....	\$	10.00	Each
STEEL COUPLED WELDED REINFORCING				
A615/A706	Tensile Up to No. 11 Bar	\$	80.00	Each
A615/A706	Tensile No. 14 Bar.....	\$	100.00	Each
A615/A706	Tensile No. 18 Bar.....	\$	275.00	Each
STRUCTURAL STEEL				
A370/F606	Bolt Tensile Test	\$	55.00	Each
A370/F606	Bolt Proof Test.....	\$	45.00	Each
A370/F606	Nut Proof Test	\$	45.00	Each
A370/F606	Nelson Stud Tensile Test.....	\$	115.00	Each
A370/F606	Metal Deck Tensile Test (formed sheet metal)	\$	135.00	Each
E10	Brinell Hardness Test	\$	45.00	Each
E18	Rockwell Hardness Test.....	\$	45.00	Each
A370/F606	Coupon Tensile Test.....	\$	40.00	Each
A370/F606	Coupon Bend Test.....	\$	40.00	Each
A370/F606	Nut / Bolt / Washer Hardness Test	\$	45.00	Ea. Pc
A90	Metal Deck Coating.....	\$	115.00	Each
A370/F606	Machining & Preparation of Samples.....	\$	40.00	Each
F1554	Anchor Bolt Assembly Testing (Milling, Tensile, Chemical Analysis).....	\$	1,000.00	Each
PRESTRESS				
A416	Prestressed Strand & Preparation (Yield / Tensile).....	\$	145.00	Each
FIREPROOFING				
E605	Oven Dry Density.....	\$	45.00	Each
E736	Adhesive/Cohesion Testing.....	\$	45.00	Each
ROOFING				
C1167	Tiles (Breaking Strength / Absorption)	\$	60.00	Each
C1459	Mineral Shake – Flexural	\$	40.00	Each
C1459	Mineral Shake – Absorption	\$	30.00	Each
Applicable Code	Tagging, Material Id and Sampling Tiles	\$	70.00	Per Hour
	Final Laboratory Roof/Tile Material Affidavit Report.....	\$	300.00	Each

FLOOR FLATNESS

Price Includes 1 technician and equipment

Floor Flatness Testing	\$	150.00	Per Hour
Floor Flatness Final Report	\$	200.00	Each
Additional Technician (if necessary)	\$	95.00	Per Hour

WELD PROCEDURE AND WELDER QUALIFICATIONS

Review Existing Welding Procedure Specification (WPS) report	\$	150.00	Each
Review Welding Procedure Qualification (PQR) report	\$	150.00	Each
Observe Welder Qualification (AWS/CWI)	See Materials	Inspector Rate	
Weld Tensile Test Plate (1-inch thick or less)	\$	80.00	Each
Weld Bend Test Plate (1-inch thick or less)	\$	55.00	Each
Weld Macro Etch Plate (1-inch thick or less)	\$	70.00	Each
Weld Tensile Test Rebar #3 through #9	\$	90.00	Each
Weld Macro Etch Rebar #3 through #9	\$	70.00	Each
Weld Tensile Test Rebar #10 through #14	\$	125.00	Each
Weld Macro Etch Rebar #10 through #14	\$	110.00	Each
Weld Tensile Test Rebar #18	\$	275.00	Each
Weld Macro Etch Rebar #18	\$	180.00	Each
X-Ray Plate or Rebar in Laboratory (1-inch thick or less)	\$	150.00	Each

ENGINEERING AND PROFESSIONAL SERVICES

Senior Engineer/ Senior Geologist	\$	180.00	Per Hour
Staff Engineer/Geologist	\$	160.00	Per Hour
Project Manager / Field Supervisor	\$	120.00	Per Hour
Administration	\$	75.00	Per Hour
Drafter	\$	85.00	Per Hour
Test Technicians Lab – Materials	\$	85.00	Per Hour
Certified Payroll	\$	75.00	Per Week
Court Appearance (4-Hour Minimum)	\$	350.00	Per Hour
Preparation for Court, Consultation (in our Office)	\$	250.00	Per Hour
Preparation for Court, Consultation (Out of our Office, 4-Hour Minimum)	\$	250.00	Per Hour
Expert Witness Testimony (Corporate Officers and Engineers)		Quotation	
Deposition (portal to Portal, 4-Hour Minimum)	\$	275.00	Per Hour

REPORTS

Final Materials Compliance Report	\$	500.00	Each
Monthly Materials Compliance Report	\$	150.00	Each
Final Laboratory Verified Report (LVR) DSA-291 (Required for DSA Projects)	\$	500.00	Each
Interim Verified Report (LVR) DSA-291 or DSA 293 (Required for DSA Projects)	\$	100.00	Each
Interim Report from Engineer	\$	500.00	Each
Review of Existing Mix Design, Determination of Proportions (3-5 Bus. Day Result)	\$	150.00	Each
Review of Existing Mix Design, Determination of Proportions (1-2 Bus. Day Result)	\$	300.00	Each
Report for Special Services / Off Site Testing	\$	200.00	Each
Final Grading / Compaction Report (Comprehensive)	\$	2,500.00	Each
Final Geotechnical Verified Report (GVR) DSA-293 (Required for DSA Projects)	\$	1,000.00	Each
Pad Certificate Report	\$	1,500.00	Each
Utility Trench Compaction Report	\$	2,500.00	Each
Wall Backfill Report	\$	1,500.00	Each
Monthly Interim In-Grading Report	\$	1,000.00	Each
Pile/Shoring Monitoring Report	\$	2,000.00	Each
Plan Review (Grading/ Foundation)	\$	1,000.00	Each
Extra Stamped Reports	\$	150.00	Each

MINIMUM HOURLY CHARGES

Minimum charges will apply for 2, 4 & 8 hour blocks defined as follows:

- 2-hour minimum: Inspector shows up, no work requested or performed
- 4-hour minimum: 1 to 4 hours.
- 8-hour minimum: Work over 4 hours.

Note: Less than 24-hour call-out notice may necessitate premium charges.

Charges For Service and Contract Terms Prevailing Wage Projects

The charges for services and General Terms and Conditions set forth below will govern the provision of services and will constitute the contract terms between the Owner or Owner's Representative (Client) and Koury Engineering and Testing, Inc (KET) unless the Client and KET have executed a written contract with respect to such services, in which case the terms and provisions of the written contract shall control.

1. Anticipated Costs

- 1.1. KET estimates a budget to assist the client with code required inspections and testing based upon information provided by the client. KET's ability to perform within the estimated budget depends heavily on the accuracy of the information provided, as well as the cooperation and assertiveness of client's management staff.
- 1.2. Project actual budget totals may vary. Estimated budget hours are based on 40 hours a week, 8 hours a day, Monday-Friday. Client shall monitor the percentage of work remaining to assure inspections and testing is not greater than the estimated budget and adjusts the contractor's labor and scheduling to maintain the work completion schedule.
- 1.3. A call scheduling inspection and testing beyond KET's estimated budget is deemed acceptance that Client will pay for additional services beyond KET's estimated budget.
- 1.4. Client recognizes and agrees that any "anticipated costs," "budget estimates," or the like that may be prepared by KET are NOT "guaranteed maximums," "lump sums;" or "not-to-exceed totals". Client will be invoiced for all work performed and only for work performed based on KET's working conditions and hours as an attachment to their contract.
- 1.5. Client recognizes, if shop steel fabrication service is required, KET's estimate of hours, unless otherwise noted, is for one steel fabrication facility only.
- 1.6. Additionally, any weekly overtime hours, Saturday or Sunday, double shift, and/or night shift differential for shop steel inspection are NOT included in KET's proposal.
- 1.7. An Administration fee of 4% will be applied on monthly invoice and a 3% credit card processing fee is applied when invoice is paid by credit card.

2. Minimum Charges

- 2.1. 2-hour minimum: Inspector shows up; no work requested or performed.
- 2.2. 4-hour minimum: 1 to 4 hours.
- 2.3. 8-hour minimum: Work over 4 hours.
- 2.4. NOTE: Less than 24 hour call-out notice may necessitate premium charges.

3. Working Hours

- 3.1. Regular Time: First 8 hours, Monday-Friday
- 3.2. Time and One-Half Hours: Hours over 8 -12 Monday-Friday, and first 12 Hours on Saturday; Double Time: All hours worked after 12, Monday-Saturday, Sunday, and Holidays.
- 3.3. KET observes the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day.
- 3.4. Overtime hours shall be billed in one hour increments. One half (.5) hour of overtime is billed as one (1) hour of overtime.
- 3.5. NOTE: Day shift hours are between 5:00am and 5:00pm.

4. Shift Differential

- 4.1. Second (Swing Shift)-Eight (8) hours will be charged for 7.5 hours worked. Time worked in excess of 7.5 hours will be billed at time and one-half rate.
- 4.2. Third (Graveyard Shift)-Eight (8) hours will be charged for 7 hours worked. Time worked in excess of 7 hours will be billed at time and one-half times the hourly rate.

5. Travel Time and Mileage

- 5.1. Travel time costs for soil monitoring and soil technicians will be invoiced at regular contracted billing rate; overtime applies.
- 5.2. Mileage costs for soil monitoring and soil technicians will be invoiced at \$.75 per mile.
- 5.3. Portal-to-Portal travel time and mileage costs will apply for Engineers, Site Supervisors, Technicians (including Utility Locating and NDT) and Consultants at the contracted billing rate, mileage will be invoiced at \$.75 per mile. Portal-to-Portal is recognized as KET's office to work site and return.
- 5.4. For projects in excess of 100 miles from a KET office, travel time, mileage and subsistence allowance will be charged in addition to hours worked from KET's closest office.

6. Scheduling and Cancellations

- 6.1. A 24-hour notice is required when scheduling an inspection or technician. If same day scheduling or scheduling after 2:00pm the preceding day is requested, a premium expedite fee of \$75 per inspector or technician will apply.
- 6.2. If inspection service is not canceled with KET's dispatch department by 2:00pm for the next day for ICC, LA City or LA County jurisdictions, a premium cancellation fee will apply at the rate of \$75 per inspector or technician.

7. Expedite Fee

- 7.1. All expedited and rush requests for, mix design reviews, WPS reviews, RFI responses, lab work, test results, report reviews, etc. will be charged an expedite fee at 1.5 times the Master Fee Schedule of Rates. Standard turn-around time is 5 business days.

8. Escalation Clause

- 8.1. The prices quoted below for all services will change July 1st each year in accordance with the wage listed by the Director of Industrial Relations which is tied to Operating Engineers Local 12. The charges for services set forth in this Schedule of Fees will be adjusted by changes in our general administrative and overhead expenses each year thereafter. These adjusted charges shall become the agreed upon basis for charges by Koury to the Client.

9. Certified Payroll

- 9.1. Certified payroll requests will have a processing fee applied for each project, billed at \$150 per payroll month.

10. Laboratory Testing

- 10.1. Unless otherwise agreed, all samples or test specimens will be disposed of or destroyed upon completion of testing. If Client requires samples to be retrieved or stored, arrangements can be made at an additional cost. Quotation will be provided for such services.
- 10.2. Samples requiring more than one person to handle due to oversize or weight, will incur an extra handling charge. Quotation will be provided for such services.

11. Reimbursable Expenses

- 11.1. Outside Services performed by others and direct costs incurred on the Client's behalf, will be charged at cost plus 20%.
- 11.2. Project exclusive equipment or material will be invoiced at cost plus 20%.
- 11.3. Business licenses or inspection jurisdiction fees for project specific requirements will be invoiced at cost plus 20%.
- 11.4. If free parking is not available, parking charges will be charged to the Client at cost plus 20%.
- 11.5. Incidentals, including airfare, car rental, food, lodging, and parking, will be charged at cost plus 20% for out of area inspections unless provided by Client.

12. Terms of Payment

- 12.1. Client agrees invoices rendered for professional or technical services will be prepared bi-weekly and are due upon presentation.
- 12.2. All invoice errors or necessary corrections shall be submitted to KET within Fifteen (15) days of receipt of invoice; thereafter customer acknowledges invoice is correct and valid for payment due to KET.
- 12.3. Invoices will be deemed delinquent if not paid within thirty (30) days from date of invoice, and will be subject to a late payment charge of 1.5% of the invoice total for each month unpaid.
- 12.4. In the event, an attorney is needed for collection, Client is responsible for reimbursing attorney's fees and or court costs.
- 12.5. KET reserves the right to terminate services to a client without notice if client's account is past due more than thirty (30) days. Upon such termination of services, the entire amount accrued for all services performed shall immediately become due and payable to KET. Client waives any and all claims against KET, its subsidiaries, affiliates, servants, and agents in connection with termination of work/services pursuant to this agreement.

13. Insurance

- 13.1. KET carries all insurance required by law. Additional costs for waiver of subrogation, extra insurance certificates, coinsurance endorsements or additional insurance will be invoiced to the client at \$150 each.

14. Final Reports

- 14.1. When final report is required, KET must first review all inspection and material testing reports; KET will address and clear up any unresolved issues on these reports, typically with the Architect or Engineer of Record.
- 14.2. Depending on the project complexity and length of KET services performed, this process can require a minimum of ten (10) business days for completion. If there are exceptions, the final report review can require an extended length of time to complete.
- 14.3. Report fee is as negotiated per contract. An additional charge will incur for every report processed per permit number associated with the project. Engineer will be billed at \$190 per hour.
- 14.4. Client is required to send KET written request for all final project reports via fax, email, or US mail.
- 14.5. Final reports are as stated, but not limited to: Final Material Compliance Report and Final Grading / Compaction Report.
- 14.6. KET will release final report to client once account, including cost of final report, is paid in full.
- 14.7. Review of mix designs, WPS's, RFI's, interim reports, welder qualifications, etc. is subject to a standard turn-around time of 5 business days from date of request. Anything sooner than that will necessitate an expedite fee.

15. Service Authorization

- 15.1. Verbal request will be considered authorization to perform billable work. Client shall designate member(s) of staff who have authority to request services and notify KET in writing to their authorized representative. Otherwise all service requests are billable

General Conditions

1. Indemnification

In the event of any claim against KET by any party other than Client, Client agrees to hold KET, including its shareholders, officers, directors, employees, agents, and representatives, free and harmless of any from, and to indemnify and defend KET against, any and all liability, claims, causes of action, demands, judgments, losses, damages, expenses, or cost (including, but not limited to, all costs and fees of litigation) of every kind, nature and description, including but not limited to, any and all demands arising by reason of injury or death to person or damage to property, real or personal, including loss of use thereof, economic loss or loss damages otherwise arising directly or indirectly out of the obligations herein undertaken, or out of operations conducted by client, however caused or alleged to have been caused, even if due to acts, errors, omissions or negligence, active, affirmative or passive of KET, except for such losses or damages arising out of or caused by the sole negligence or willful misconduct of KET.

2. Limitation of Liability

Client and KET agree to limit the liability, including but not limited to, for consequential damages, of KET, including its shareholders, officers, directors, employees, agents and representatives for any acts, errors, omissions, breaches of contract, or negligence, active, affirmative, passive, concurrent or sole, on the part of KET, arising directly or indirectly from the performance of the professional services under this agreement, to Client to \$10,000 or an amount equal to KET's fee, whichever is greater.

Client agrees and understands that, in order to provide the professional services requested at the agreed upon fees, this agreement does not provide full liability of KET losses or damages which may arise directly or indirectly under this agreement. Client further understands that should Client require KET to accept exposure to greater liability under this agreement, Client has the opportunity to negotiate in advance a higher limitation of liability, or to eliminate entirely such limit of liability, but that the higher fees commensurate with this higher risk of liability to KET shall be subject to agreement. Client agrees that this provision limiting KET's liability cannot be modified, altered, or varied except by written instrument signed by Client and KET.

Client understands and agrees that KET is not an insurer; that this agreement does not provide Client with insurance coverage by KET or anyone acting on its behalf; that all fees hereunder are based solely on the value of the professional services to be provided by KET; that insurance, if any, shall be obtained by Client at Client's sole expense

3. Warranty of Authority to Sign

The person signing this contract warrants that he/she has the authority to sign on behalf of the client for whose benefit Consultant's services are rendered. If such person does not have such authority, he/she is personally liable for all breaches of this contract and that, in any action against him/her of such warranty, a reasonable attorney's fee shall be included in judgment rendered.

4. Dominant Terms

The terms and conditions of this Agreement shall take precedents over any terms and conditions which may appear in Client's purchase order, approval or acceptance. Any terms and conditions of Client's purchase order, approval or acceptance which are not identical to the terms and conditions of this Agreement are null and void, are not part of the agreement between KET and Client and are not binding upon KET. The terms and conditions of this agreement may not be varied or changed, nor any of its provisions waived, except by written agreement, signed by an authorized representative of KET. If Client's terms are different, a statement of worth will be provided with updated terms and conditions.

EXHIBIT D

FEDERAL CONTRACT TERMS, CONDITIONS, AND REGULATIONS

As used in this Exhibit F, this Agreement may be referred to as the “contract,” and Consultant may be referred to as “contractor.” In performing its Work under the Contract, Contractor must conform to all applicable federal, state, and local codes, laws, ordinances, rules and regulations, which will have full force and effect as though printed in full in the Contract. In addition to the terms, conditions, performance obligations, and other requirements set forth in the Contract, Contractor must comply with the following federal contract terms, conditions, and regulations, which are incorporated by reference in the Contract:

- 1. Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

41 CFR 60–1.4(b) provides:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction Work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action will include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in

conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision will not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of Workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or Workers' representatives of the contractor's commitments under this section, and must post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of

September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction Work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in Work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has

been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. **Davis–Bacon Act, as amended (40 U.S.C. 3141–3148).** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non– Federal entities must include a provision for compliance with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non–Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti–Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public Work, to give up any part of the compensation to which he or she is otherwise entitled. The non–Federal entity must report all suspected or reported violations to the Federal awarding agency.
3. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** Where applicable, all contracts awarded by the non–Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard Work week of 40 hours. Work in excess of the standard Work week is permissible provided that the Worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours Worked in excess of 40 hours in the Work week. The requirements of 40 U.S.C. 3704 are applicable to construction Work and provide that no laborer or mechanic must be required to Work in surroundings or under Working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
4. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research Work under that “funding agreement,” the

recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. **Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended**. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non–Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
6. **Debarment and Suspension (Executive Orders 12549 and 12689)**. A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
7. **Byrd Anti–Lobbying Amendment (31 U.S.C. 1352)**. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non–Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non–Federal award.
8. **2 CFR § 200.322 Procurement of Recovered Materials**. A non–Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

9. Certification for Contracts, Grants, Loans, and Cooperative Agreements. The parties to this Contract agree to comply with the provisions of 43 CFR 18, New Restrictions on Lobbying, including the following certification requirements:

In accordance with 43 C.F.R. § Part. 18, Appendix A, each of the parties to this Contract certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the parties, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the parties must complete and submit Standard Form–LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The parties must require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification must be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

10. Executive Order 13513 of October 1, 2009, Federal Leadership On Reducing Text Messaging While Driving. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Subrecipients. Each Federal agency, in procurement contracts, grants, and cooperative agreements, and other grants to the extent authorized by applicable statutory authority, entered into after the date of this order, must encourage contractors, subcontractors, and recipients and subrecipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any Work for or on behalf of the Government. Agencies should also encourage Federal contractors, subcontractors,

and grant recipients and subrecipients as described in this section to conduct initiatives of the type described in section 3(a) of this order.

- 11. Drug-Free Workplace (2 CFR §182 and §1401).** The Department of the Interior regulations at 2 CFR 1401—Government-wide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as amended) are hereby incorporated by reference and made a part of this Contract. By entering into this Contract, the Contractor agrees to comply with 2 CFR 182.
- 12. Copeland Anti-Kickback Act (18 U.S.C. 874).** Contractor agrees to comply with the Copeland Anti-Kickback Act as supplemented by Department of Labor regulations (29 CFR part 5).