

**CITY OF PALM DESERT  
PROFESSIONAL SERVICES AGREEMENT**

**1. PARTIES AND DATE.**

This Agreement No. C44810 is made and entered into this 16th day of February 2023, by and between the City of Palm Desert, a municipal corporation organized under the laws of the State of California with its principal place of business at 73-510 Fred Waring Drive, Palm Desert, California 92260-2578, County of Riverside, State of California ("City") and **Anser Advisory Management**, a limited liability company, with its principal place of business at 2677 N. Main Street, Suite 400, Santa Ana, CA 92705 ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

**2. RECITALS.**

**2.1 Project.**

The City is a public agency of the State of California and is in need of professional services for the following project:

**ON-CALL CONSTRUCTION MANAGEMENT SERVICES**  
(hereinafter referred to as "the Project").

**2.2 Capital Improvement Program.**

The City has approved in its FY22/23 Financial Plan a 5-Year Capital Improvement Plan ("CIP"). The total cost for construction management services the City may require over the five years of the CIP is estimated to be up to \$11,739,394. As a result, the City is entering into contracts with two construction management firms ("Consultants") to provide on-call construction management services per the terms and conditions set forth in the contracts (the "CM Agreements"). The City will determine which projects may be assigned to the Consultants and issue task order(s) for the projects. This Agreement shall be subject to and conditioned upon appropriation of funds by the City Council. Any financial obligations of the City earned and payable after FY22/23 are contingent upon funds for that purpose being appropriated, budgeted or otherwise made available by the City Council. An oversight committee comprised of representatives of the City Attorney, Director of Finance, and Director of Public Works shall review annual expenditures and performance of the Consultant under this Agreement.

**2.3 Consultant.**

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement on an on-call, as-needed basis in the task order(s) to be issued pursuant to this Agreement and executed by the City and Consultant ("Task Order"). There is no guarantee of any of the work under this Agreement other than what is specified herein or that the not-to-exceed compensation amount set forth herein will be spent, and shall be subject to annual budget appropriation, funding availability, and subject to annual review by the City of the Consultant performance and availability. Consultant is duly licensed and has the necessary qualifications to provide such services.

**3. TERMS.**

**3.1 Scope of Services and Term.**

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary

work necessary to fully and adequately supply the services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference and in the individual Task Orders issued by the City. No Services shall be performed unless authorized by this Agreement and by a fully executed Task Order in the form attached hereto as Exhibit "C". All Services shall be subject to, and performed in accordance with, this Agreement, any relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from February 16, 2023, to February 16, 2025, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than three (3) additional one-year terms. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the City.

### **3.2 Responsibilities of Consultant.**

3.2.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services shall not be employees of City and shall at all times be under Consultant's exclusive direction and control. Neither City, or any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services in a prompt and timely manner in accordance with the Schedule of Services set forth in each Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: Tyson Atwood, Senior Director VP, Anser Advisory Management, LLC.

3.2.5 City's Representative. The City hereby designates Martin Alvarez, Director of Public Works, or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for review and approval of all products submitted by Consultant but not the authority to enlarge the scope of Services or change the total compensation due to Consultant under this Agreement. The City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the scope of services or change the Consultant's total compensation subject to the provisions contained in Section 3.3 of this Agreement. Consultant shall not accept direction or orders from any person other than the City Manager, City's Representative or his/her designee.

3.2.6 Consultant's Representative. Consultant hereby designates Tyson Atwood, Senior Director VP, Anser Advisory Management, LLC., or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Period of Performance. Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above, and shall meet any other established schedules and deadlines set forth in the Task Order(s) ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in this Agreement or any Task Order(s), or which may be separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage.

Neither City nor Consultant shall be considered in default of this Agreement for delays in

performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the services, only to the extent such strikes and other organized labor action are beyond the control of Consultant and its subcontractors, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the services and Agreement.

Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Consultant to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.2.10 Laws and Regulations; Employee/Labor Certification. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause.

3.2.10.1 Employment Eligibility; Consultant. Consultant certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Consultant certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer, and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.3 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.2.11 Insurance.

3.2.11.1 Minimum Requirements. Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form that is satisfactory to City.

(A) General Liability Insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(B) Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident. The City's Risk Manger may modify this requirement if it is determined that Consultant will not be utilizing a vehicle in the performance of his/her duties under this Agreement.

(C) Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

(D) Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000). Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, volunteers and representatives.

(E) Umbrella or Excess Liability Insurance. Consultant may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, Consultant shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

- (1) A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- (2) Pay on behalf of wording as opposed to reimbursement;
- (3) Concurrency of effective dates with primary policies; and

- (4) Policies shall "follow form" to the underlying primary policies.
- (5) Insureds under primary policies shall also be insureds under the umbrella or excess policies.
- (F) Fidelity Coverage. Reserved
- (G) Cyber Liability Insurance. Reserved
  - (1) Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination or use of the confidential information.
  - (2) Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.
  - (3) Liability arising from the failure of technology products (software) required under the contract for Consultant to properly perform the services intended.
  - (4) Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.
  - (5) Liability arising from the failure to render professional services

If coverage is maintained on a claims-made basis, Consultant shall maintain such coverage for an additional period of three (3) years following termination of the Agreement.

3.2.11.2 Other Provisions or Requirements.

(A) Proof of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(B) Duration of Coverage. Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, his/her agents, representatives, employees or subconsultants.

(C) Primary/Non-Contributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance

shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(D) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications, or is canceled and not replaced, City has the right, but not the duty, to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may terminate this Agreement.

(E) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(F) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, volunteers, and representatives or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against the City, its elected or appointed officers, agents, officials, employees, volunteers and representatives and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(G) Enforcement of Contract Provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(H) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(I) Notice of Cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(J) Additional Insured Status. General liability, automobile liability, and if applicable, pollution liability and cyber liability, policies shall provide or be endorsed to provide that the City and its officers, officials, employees, agents, volunteers and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement, under such policies. This provision shall also apply to any excess/umbrella liability policies.

(K) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(L) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(M) Pass Through Clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the Project who is brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subconsultants, subcontractors, and others engaged in the Project will be submitted to City for review.

(N) City's Right to Revise Specifications. The City and the City's Risk Manager reserve the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation. If the City reduces the insurance requirements, the change shall go into effect immediately and require no advanced written notice.

(O) Self-Insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(P) Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(Q) Additional Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Services.

3.2.12 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the City's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant must comply with the lawful requirements of the City, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. Failure to comply with laws, regulations, and ordinances listed in this Section is a violation of federal and state law. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the work assigned to them without impacting water quality in violation of

the laws, regulations and policies of this Section.

### 3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in aggregate between the CM Agreements, shall not exceed **ELEVEN MILLION SEVEN HUNDRED AND THIRTY-NINE THOUSAND THREE HUNDRED AND NINETY-FOUR (\$11,739,394)** without written approval of the City Council or City Manager, as applicable. Any financial obligations of the City earned and payable after FY22/23 are contingent upon funds for that purpose being appropriated, budgeted or otherwise made available by the City Council.

3.3.2 Payment of Compensation. Consultant shall submit to City monthly invoices which provide a detailed description of the Services and hours rendered by Consultant. City shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the City disputes any of Consultant's fees, the City shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Consultant shall submit its final invoice to City within thirty (30) days from the last date of provided Services or termination of this Agreement and failure by the Consultant to submit a timely invoice may constitute a waiver of its right to final payment. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City, or included in Exhibit "B" of this Agreement.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

### 3.4 Labor Code Requirements.

3.4.1 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 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the City, its officials, officers, employees, agents, volunteers and representatives, free and harmless

from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

**3.4.2 Registration/DIR Compliance.** If the Services are being performed on a public works project of over \$25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over \$15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant's performance of Services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees, agents, volunteers and representatives free and harmless from any claim or liability arising out of stop orders issued by the DIR against Consultant or any subconsultant.

**3.4.3 Labor Certification.** By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

### **3.5 Accounting Records.**

**3.5.1 Maintenance and Inspection.** Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### **3.6 General Provisions.**

#### **3.6.1 Termination of Agreement.**

**3.6.1.1 Grounds for Termination.** City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

**3.6.1.2 Effect of Termination.** If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance

of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.6.1.3 Early Termination. Notwithstanding any provision herein to the contrary, if for any fiscal year of this Agreement the City Council fails to appropriate or allocate funds for future payment under the Agreement after exercising reasonable efforts to do so, the City may upon seven (7) days' written notice, order work on the Project to cease. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation.

3.6.1.4 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.6.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: Anser Advisory Management, LLC  
2677 N Main Street, Suite 400  
Santa Ana, CA 92705  
ATTN: Tyson Atwood, Senior Director VP

City: City of Palm Desert  
73-510 Fred Waring Drive  
Palm Desert, CA 92260  
ATTN: Martin Alvarez, Director of Public Works

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.3 Ownership of Materials and Confidentiality.

3.6.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a

minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.6.3.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.6.3.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.6.3.4 Indemnification – Documents and Data. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers, agents and representatives free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.6.3.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.6.3.6 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent

jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the release notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, agents, volunteers and representatives from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of an objection notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.6.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.5 [Reserved]

3.6.6 Indemnification.

3.6.6.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, agents, and representatives free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subconsultants or agents in connection with the performance of the Consultant's Services, the Project, this Agreement, or any Task Order, including without limitation the payment of all expert witness fees, attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, volunteers, or representatives.

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

3.6.7 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements.

3.6.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.6.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6.10 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.6.12 Assignment; Subcontracting. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.6.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, volunteers and representatives except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.6.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.6.16 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.19 Authority to Enter Agreement. Consultant has all requisite power and

authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.20 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.21 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

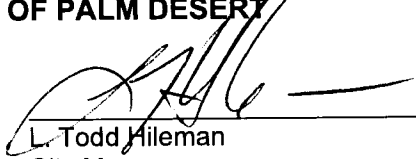
**[SIGNATURES ON NEXT PAGE]**

**SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT  
BY AND BETWEEN THE CITY OF PALM DESERT  
AND ANSER ADVISORY MANAGEMENT, LLC.**

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

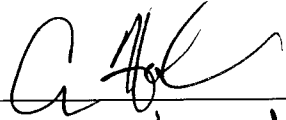
**CITY OF PALM DESERT**

By:

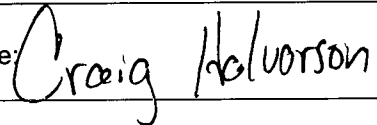
  
\_\_\_\_\_  
L. Todd Hileman  
City Manager

**ANSER ADVISORY MANAGEMENT, LLC.**

By:

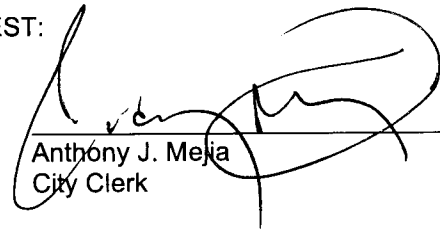
  
\_\_\_\_\_  
Its: Executive Vice President

Printed Name:

  
\_\_\_\_\_  
Craig Helvorson


ATTEST:

By:

  
\_\_\_\_\_  
Anthony J. Mejia  
City Clerk

APPROVED AS TO FORM:

By:

  
\_\_\_\_\_  
Best Best & Krieger LLP  
City Attorney

QC: MN

Insurance:

  
Initial Review

  
Final Approval

**EXHIBIT "A"**  
**SCOPE OF SERVICES/SCHEDULE OF SERVICES**



CITY OF PALM DESERT  
REQUEST FOR PROPOSAL  
2022-RFP-153

**ANSER**  
ADVISORY

SUBMITTED BY:

**ANSER**  
ADVISORY

2677 N. MAIN STREET, SUITE 400  
SANTA ANA, CA 92705  
(714) 276.1135

Construction Management Services for North Sphere  
Fire Station and Cost Estimating Services for the  
Building Assessments of Fire Station 33 and 71  
January 13, 2023

## E. FEE PROPOSAL

**CITY OF PALM DESERT RFP 2022-RFP-153**

Construction Management Services for Norm Spore Fire Station and  
Cost Estimating Services for the Building Assessments of Fire Station 33 and 71



**City of Palm Desert**  
 Request for Proposal: 2022-RFP-153  
 January 23, 2023

**Labor**

<b>Position</b>	<b>Key Staff</b>	<b>Billing Rate</b>
Principal	Tyson Atwood	\$255.00
Construction Manager, Supervising	Stephen Mutch	\$240.00
Construction Manager, Senior	Tony Gatoff	\$210.00
Construction Manager, Associate		\$180.00
Construction Manager, II		\$140.00
Construction Manager, I		\$110.00
Inspector, Senior		\$155.00
Inspector, Associate		\$135.00
Inspector (Prevailing Wage)		\$185.00
Scheduler, Technical Expert		\$225.00
Scheduler, Senior		\$185.00
Scheduler, Associate		\$140.00
Scheduler, Junior		\$120.00
Technical Expert (Claims)	Shawn Paroline	\$235.00
Technical Expert (Estimating)	Andy Kleimola	\$235.00
Estimator, Supervising	Dustin Reinhardt	\$185.00
Estimator, Associate		\$160.00
Estimator, Junior		\$110.00
Admin		\$95.00
Admin, Senior		\$110.00
Labor Compliance Manager		\$135.00
Labor Compliance Analyst		\$105.00

**ODC's (Reimbursable Expenses)**

<b>Description</b>	<b>Unit</b>	<b>Rate</b>
Virtual Project Office (VPO)	Month	\$1,000.00
Vehicle Rentals*	Month	\$1,300.00
POV Mileage Exp.		per IRS rate
OpenSpace Photo Documentation		As requested
Subconsultant Mark-Up		0%

\* Max Rate. Billed as a percentage of actual hours billed

<b>METHOD</b>	<b>\$/TEST</b>
<b>TRIAxIAL TESTS</b>	
Unconfined compression strength of cohesive soil (with stress/strain plot. ASTM D2166).....	145
Unconsolidated undrained triaxial compression test on cohesive soils (UU, ASTM D2850, USACE Q test, per confining stress).....	185
Consolidated undrained triaxial compression test for cohesive soils, (CU, ASTM D4767, USACE R-bar test) with back pressure saturation & pore water pressure measurement (per confining stress).....	400
Consolidated drained triaxial compression test (CD, USACE S), with volume change measurement. Price per soil type below EM 1110-2-1906(X):	
Sand or silty sand soils (per confining stress).....	400
Silt or clayey sand soils (per confining stress).....	535
Clay soils (per confining stress).....	755
Three-stage triaxial (sand or silty sand soils).....	700
Three-stage triaxial (silt or clayey sand soils).....	935
Three-stage triaxial (clay soils).....	1,320
Remolding of test specimens.....	70

<b>METHOD</b>	<b>\$/TEST</b>
<b>HYDRAULIC CONDUCTIVITY TESTS</b>	
Triaxial permeability in flexible-wall permeameter with backpressure saturation at one effective stress (EPA 9100/ASTM D5084, falling head Method C).....	335
Each additional effective stress.....	130
Hand trimming of soil samples for horizontal K.....	65
Remolding of test specimens.....	70
Permeability of granular soils (ASTM D2434).....	145
Soil suction (filter paper method, ASTM D5298).....	430
<b>SOIL-CEMENT</b>	
Moisture-density curve for soil-cement mixtures (ASTM D558).....	260
Wet-dry durability of soil-cement mixtures (ASTM D559) <sup>1</sup> .....	1,290
Compressive strength of molded soil-cement cylinder (ASTM D1633) <sup>1</sup> .....	65
Soil-cement remolded specimen (for shear strength, consolidation, etc.) <sup>1</sup> .....	250
<sup>1</sup> Compaction (ASTM D558 maximum density) should also be performed – not included in above price	

### CONSTRUCTION MATERIALS LABORATORY TESTING

<b>METHOD</b>	<b>\$/TEST</b>
<b>CONCRETE STRENGTH CHARACTERISTICS</b>	
Concrete cylinders compression (ASTM C39) (6" x 12" and 4" x 8").....	40
Compression, concrete or masonry cores (testing only) ≤6 inch (ASTM C42).....	45
Trimming concrete cores (per core).....	25
Flexural strength of concrete (simple beam-3rd pt. loading, ASTM C78/CTM 523).....	90
Flexural strength of concrete (simple beam-center pt. loading, ASTM C293/CTM 523).....	90
Non shrink grout cubes (2 inch, ASTM C109/C1107).....	30
Drying shrinkage - four readings, up to 90 days, 3 bars (ASTM C157).....	430
Length of concrete cores (CTM 531).....	45
<b>HOT MIX ASPHALT (HMA)</b>	
Resistance of compacted HMA to moisture-induced damage (AASHTO T283/CTM 371).....	2,250
Hamburg Wheel, 4 briquettes (modified) (AASHTO T324).....	965
Superpave gyratory compaction (AASHTO T312/ASTM D6925).....	375
Extraction by ignition oven, percent asphalt (AASHTO T308/ASTM D6307/CTM 382).....	160
Ignition oven correction/correlation values (AASHTO T308/ASTM D6307/CTM 382).....	1,445
Extraction by centrifuge, percent asphalt (ASTM D2172).....	160
Gradation of extracted aggregate (AASHTO T30/ASTM D5444/CTM 202).....	145
Stabilometer, S-Value (ASTM D1560/CTM 366).....	285
Bituminous mixture preparation (AASHTO R30/CTM 304).....	85
Moisture content of HMA (AASHTO T329/ASTM D6037/CTM 370).....	65
Bulk specific gravity of compacted HMA, molded specimen or cores, uncoated (AASHTO T166/ASTM D2726/CTM 308).....	55
Bulk specific gravity of compacted HMA, molded specimen or cores, paraffin-coated (AASHTO T275/ASTM D1188/CTM 308).....	60
Maximum density - Hveem (CTM 308).....	215
Theoretical maximum density and specific gravity of HMA (AASHTO T209/ASTM D2041/CTM 309).....	140
Thickness or height of compacted bituminous paving mixture specimens (ASTM D3549).....	45
Wet track abrasion of slurry seal (ASTM D3910).....	160
Rubberized asphalt (add to above rates).....	+25%
<b>BRICK</b>	
Compression - cost for each, 5 required (ASTM C67).....	55
Absorption - cost for each, 5 required (ASTM C67).....	55

<b>METHOD</b>	<b>\$/TEST</b>
<b>AGGREGATE PROPERTIES</b>	
Bulk density and voids in aggregates (AASHTO T19/ASTM C29/CTM 212).....	55
Organic impurities in fine aggregate sand (AASHTO T21/ASTM C40/CTM 213).....	65
LA Rattler-smaller coarse aggregate <1.5" (AASHTO T96/ASTM C131/CTM 211).....	215
LA Rattler-larger coarse aggregate 1-3" (AASHTO T96/ASTM C535/CTM 211).....	270
Apparent specific gravity of fine aggregate (AASHTO T84/ASTM C128/CTM 208).....	140
Specific gravity and absorption of coarse aggregate (ASTM C127/CTM 206) >#4 retained.....	110
Clay lumps, friable particles (AASHTO T112/ASTM C142).....	190
Durability Index (AASHTO T210/ASTM D3744/CTM 229).....	215
Moisture content of aggregates by oven drying (AASHTO T255/ASTM C566/CTM 226).....	45
Uncompacted void content of fine aggregate (AASHTO T304/ASTM C1252/CTM 234).....	140
Percent of crushed particles (AASHTO T335/ASTM D5821/CTM 205).....	145
Flat & elongated particles in coarse aggregate (ASTM D4791/CTM 235).....	230
Cleanness value of coarse aggregate (CTM 227).....	225
Soundness, magnesium (AASHTO T104/ASTM C88/CTM 214).....	240
Soundness, sodium (AASHTO T104/ASTM C88/CTM 214).....	695
<b>MASONRY</b>	
Mortar cylinders 2" x 4" (ASTM C780).....	35
Grout prisms 3" x 6" (ASTM C1019).....	35
Masonry cores compression, ≤6" diameter - testing only (ASTM C42).....	45
Masonry core shear testing (Title 24).....	85
Veneer bond strength, cost for each - 5 required (ASTM C482).....	60
CMU compression to size 8" x 8" x 16" - 3 required (ASTM C140).....	60
CMU moisture content, absorption & unit weight - 6 required (ASTM C140).....	55
CMU linear drying shrinkage (ASTM C426).....	190
CMU grouted prisms compression test ≤8" x 8" x 16" (ASTM C1314).....	215
CMU grouted prisms compression test > 8" x 8" x 16" (ASTM C1314).....	270
<b>BEARING PADS/PLATES AND JOINT SEAL</b>	
Elastomeric bearing pads (Caltrans SS 51-3).....	1060
Elastomeric bearing pad with hardness and compression tests (Caltrans SS 51-3).....	1,315
Type A Joint Seals (Caltrans SS 51-2).....	1,735
Type B Joint Seals (Caltrans SS 51-2).....	1,640
Bearing plates (A536).....	770

METHOD	\$/TEST
<b>REINFORCING STEEL AND PRESTRESSING STRANDS</b>	
Rebar tensile test, ≤ up to No. 11 (ASTM A370).....	70
Rebar tensile test, ≥ No. 14 & over (ASTM A370) .....	215
Rebar bend test, up to No. 11 (ASTM A370).....	70
Rebar bend test, ≥ No. 14 & over (ASTM A370).....	215
Resistance butt-welded hoops/bars, tensile test, ≤ up to No. 10 (CTM 670).....	70
Resistance butt-welded hoops/bars, tensile test, ≥ No. 11 & over (CTM 670) .....	90
Mechanical rebar splice, tensile test, ≤ up to No. 11 (CTM 670).....	70
Mechanical rebar splice, slip test, ≤ up to No. 11 (CTM 670).....	45
Mechanical rebar splice, tensile test, ≥ No. 14 & over (CTM 670).....	215
Mechanical rebar splice, slip test, ≥ No. 14 & over (CTM 670).....	215
Headed rebar splice, tensile test, ≤ up to No. 11 (CTM 670).....	70
Headed rebar splice, tensile test, ≥ No. 14 & over (CTM 670) .....	215
Epoxy coated rebar/dowel film thickness (coating) test (ASTM A775/A934).....	50
Epoxy coated rebar/dowel continuity (Holiday) test (ASTM A775/A934).....	70
Epoxy coated rebar flexibility/bend test, up to No. 11 (ASTM A775/A934).....	50
Prestressing wire, tension (ASTM A416) .....	190
Sample preparation (cutting) .....	55

METHOD	\$/TEST
<b>STREET LIGHTS/SIGNALS</b>	
LED Luminaires / Signal Modules / Countdown Pedestrian Signal Face Modules (Caltrans RSS 86).....	1,390
<b>SPRAY APPLIED FIREPROOFING</b>	
Unit weight (density, ASTM E605).....	65
<b>FASTENERS / BOLTS / RODS</b>	
F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370) .....	70
F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370) .....	80
A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370).....	70
A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370) .....	80
A593 Bolts, tensile test, ≤ up to 1-1/4" diameter, stainless steel (ASTM A370).....	70
F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370).....	110
F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370).....	130
<b>SAMPLE TRANSPORT</b>	
Pick-up & delivery (weekdays, per trip, <50 mile radius from Leighton office) ...	95

**EQUIPMENT LIST**

ITEM	\$UNIT
1/4 inch Grab plates .....	5 each
1/4 inch Tubing (bonded).....	0.60 foot
1/4 inch Tubing (single) .....	0.40 foot
3/8 inch Tubing, clear vinyl .....	0.60 foot
4-Gas meter (RKI Eagle or similar)/GEM 2000 .....	140 day
Air flow meter and purge pump (200 cc/min).....	55 day
Box of 24 soil drive-sample rings.....	130 box
Brass sample tubes .....	11 each
Caution tape (1000-foot roll).....	22 each
Combination lock or padlock .....	15 each
Compressed air tank and regulator .....	55 day
Concrete coring machine (≤6-inch-dia).....	160 day
Consumables (gloves, rope, soap, tape, etc.).....	40 day
Core sample boxes.....	30 each
Crack monitor Two-Dimensional .....	30 each
Crack monitor Three-Dimensional .....	40 each
Cutoff saws, reciprocating, electric (Sawzall®) .....	80 day
D-Meter Walking Floor Profiler .....	110 day
Disposable bailers .....	25 each
Disposable bladders.....	20 each
Dissolved oxygen meter .....	50 day
DOT 55-gallon containment drum with lid .....	85 drum
Double-ring infiltrometer .....	135 day
Dual-stage interface probe .....	85 day
Dynamic Cone Penetrometer.....	430 day
Generator, portable gasoline fueled, 3,500 watts .....	90 day
Global Positioning System/Laser Range Finder.....	80 day
Hand auger set .....	90 day
HDPE safety fence (≤100 feet) .....	40 roll
Horiba U-51 water quality meter.....	135 day
Light tower (towable vertical mast).....	150 day
Magnehelic gauge .....	15 day
Manometer .....	25 day
Mileage (will adjust with IRS published rate).....	0.655 mile

ITEM	\$ UNIT
Moisture test kit (excludes labor to perform test, ASTM E1907) .....	65 test
Nuclear moisture and density gauge .....	88 day
Electrical moisture and density gauge .....	88 Day
Pachometer .....	50 day
Particulate Monitor.....	135 day
pH/Conductivity/Temperature meter .....	60 day
Photo-Ionization Detector (PID).....	130 day
Pump, Typhoon 2 or 4 stage .....	55 day
QED bladder pump w/QED control box.....	175 day
Quire fee – Phase I only .....	250 each
Resistivity field meter and pins.....	200 day
Slip / threaded cap, 2-inch or 4-inch diameter, PVC Schedule 40.....	20 each
Slope inclinometer .....	250 day
Soil sampling T-handle (Encore) .....	10 day
Soil sampling tripod .....	40 day
Speedy (R) moisture tester.....	10 day
Stainless steel bailer.....	60 day
Submersible pump with controller .....	180 day
Submersible pump/transfer pump, 10-25 gpm .....	65 day
Support service truck usage (well installation, etc.).....	250 day
Survey/fence stakes .....	10 each
Tedlar® bags .....	25 each
Traffic cones (≤25)/barricades (single lane).....	55 day
Turbidity meter .....	80 day
Tyvek® suit (each).....	25 each
Vapor sampling box .....	65 day
Vehicle usage (carrying equipment) .....	20 hour
VelociCalc.....	40 day
Visqueen (20 x 100 feet) .....	130 roll
Water level indicator (electronic well sounder) <300 feet deep well ...	100 day
ZIPLEVEL® .....	40 day
Other specialized geotechnical and environmental testing and monitoring equipment are available, and priced per site	

---

## TERMS AND CONDITIONS

- **Expiration:** This fee schedule is effective through December 31, 2023 after which non-prevailing wage rates for remaining or additional services will increase by 4% on January 1st of each year.
- **Proposal Expiration:** Proposals are valid for at least 30 days, subject to change after 30 days; unless otherwise stated in an attached proposal.
- **Prevailing Wages:** Our fees for prevailing wage work are based upon California prevailing wage laws and wage determinations. Unless specifically indicated in our proposal, costs for apprentice are not included. If we are required to have an apprentice on your project, additional fees will be charged. Prevailing wage rates will increase by \$8 on July 1st of each year.
- **Overtime:** Standard overtime rate is per California Labor Law and is billed at 1.5 or 2 times their hourly billing rate. Overtime rate for non-exempt field personnel working on a Leighton observed holiday is billed at 2 times their hourly billing rate. Overtime rate for Prevailing wage work is per the California Department of Industrial Relations (DIR) determination and is multiplied at 1.5 to 2 times their hourly billing rate for overtime and double-time, respectively.
- **Expert Witness Time:** Expert witness deposition and testimony will be charged at 2 times hourly rates listed on the previous pages, with a minimum charge of four hours per day.
- **Minimum Field Hourly Charges:** For Field Technicians, Special Inspectors or any on-site (field) materials testing services:
  - **4 hours:** 4-hour minimum charge up to the first four hours of work.
  - **8 hours:** 8-hour minimum charge for over four hours of work, up to eight hours.
- **Project time accrued includes portal to portal travel time.**
- **Insurance & Limitation of Liability:** These rates are predicated on standard insurance coverage and a limit of Leighton's liability equal to our total fees for a given project.
- **Outside Direct Costs:** Heavy equipment, subcontractor fees and expenses, project-specific permits and/or licenses, project-specific supplemental insurance, travel, subsistence, project-specific parking charges, shipping, reproduction, and other reimbursable expenses will be invoiced at cost plus 20%, unless billed directly to and paid by client.
- **Invoicing:** Invoices are rendered monthly, payable upon receipt in United States dollars. A service charge of 1½-percent per month will be charged for late payment.
- **Client Disclosures:** Client agrees to provide all information in Client's possession about actual or possible presence of buried utilities and hazardous materials on the project site, prior to fieldwork, and agrees to reimburse Leighton for all costs related to unanticipated discovery of utilities and/or hazardous materials. Client is also responsible for providing safe and legal access to the project site for all Leighton field personnel.
- **Earth Material Samples:** Quoted testing unit rates are for soil and/or rock (earth) samples free of hazardous materials. Additional costs will accrue beyond these standard testing unit rates for handling, testing and/or disposing of soil and/or rock containing hazardous materials. Hazardous materials will be returned to the site or the site owner's designated representative at additional cost not included in listed unit rates. Standard turn-around time for geotechnical-laboratory test results is 10 working days. Samples will be stored for 2 months following completion of assigned tests, after which they will be discarded. Prior documented notification is required if samples need to be stored for a longer time. A monthly storage fee of \$15 per bag and \$6 per sleeve or tube will be applied. Quoted unit rates are only for earth materials sampled in California. There may be additional cost for handling imported samples.
- **Construction Material Samples:** After all designated breaks for a given sample set meet specified compressive at design age or other client-designated strength, all "hold" cylinders or specimens will be automatically disposed of, unless specified in writing prior to the 28-day break. Unless specifically requested otherwise, all other construction materials will be disposed of after completion of testing and reporting.



**EXHIBIT "B"**  
**COMPENSATION**

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers – Riverside Area.

The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in aggregate between the CM Agreements, shall not exceed **ELEVEN MILLION SEVEN HUNDRED AND THIRTY-NINE THOUSAND THREE HUNDRED AND NINETY-FOUR (\$11,739,394)** without written approval of the City Council or City Manager, as applicable.

**EXHIBIT "C"**  
**SAMPLE TASK ORDER FORM**

Task Order No. \_\_\_\_\_

Agreement: [INSERT NAME OF AGREEMENT]

Contractor: [INSERT NAME OF CONSULTANT]

**Consultant is hereby authorized to perform the following work subject to the provisions of the Agreement identified above:**

**List any attachments:** [INSERT ATTACHMENTS, IF ANY]

**Dollar Amount of Task Order:** Not to exceed \$\_\_\_\_\_,\_\_\_\_\_.00

**Completion Date:** \_\_\_\_\_, 20\_\_

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all work specified above in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

**CITY OF PALM DESERT**

**[INSERT CONSULTANT NAME]**

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On February 27, 2023 before me, Ali Chance, Notary Public  
(Here insert name and title of the officer)

personally appeared Craig Halvorson

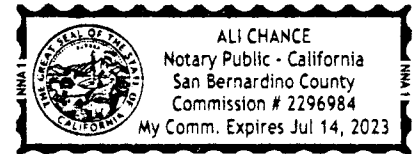
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]  
 Signature of Notary Public

(Notary Seal)



## ADDITIONAL OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

*Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~, is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

**DESCRIPTION OF THE ATTACHED DOCUMENT**

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

\_\_\_\_\_  
(Additional information)

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)

Corporate Officer

\_\_\_\_\_  
(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other \_\_\_\_\_