

## AGREEMENT BIBLIOGRAPHY

Agreement With:	Psomas
Agreement Type:	Project No. 7376 – West Street/Candy Lane Fire Flow Water Improvements Project
Date Approved:	05 13 2014
Start Date:	05 13 2014
End Date:	06 30 2015
Contract Amount:	\$124,925
Comments:	Public Works
Insurance Expiration:	10 15 2014
Date Archived:	



**CITY OF GARDEN GROVE  
OFFICE OF THE CITY CLERK**

*Safeguard all official records of the City.  
Conduct municipal elections and oversee legislative administration.  
Provide reliable, accurate, and timely information to the  
City Council, staff, and the general public.*

Bruce A. Broadwater  
Mayor

Dina Nguyen  
Mayor Pro Tem

Steven R. Jones  
Council Member

Christopher V. Phan  
Council Member

Kris Beard  
Council Member

May 29, 2014

Psomas  
3 Hutton Centre Drive, Suite 200  
Santa Ana, CA 92707

Attention: Neha Gajjar, P.E.

Enclosed is a copy of the Agreement by and between the City of Garden Grove and Psomas to provide construction of West Street/Candy Lane Fire Flow Water Improvements project No. 7376.

The Agreement was approved by the City Council at their meeting held on May 13, 2014.

Sincerely,

Kathleen Bailor, CMC  
City Clerk

By:   
Teresa Pomeroy, CMC  
Deputy City Clerk

Enclosure

c: Finance Department  
Finance Department/Purchasing  
Public Works

## **PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into, to be effective the 13<sup>th</sup> day of May, 2014, by and between the CITY OF GARDEN GROVE, a municipal corporation, hereinafter referred to as "City," and Psomas a California Corporation, hereinafter referred to as "Consultant." City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

### **RECITALS**

WHEREAS, City has determined that there is a need for Utility Research, Design Survey, Potholing, Permitting and Engineering services for construction of West Street / Candy Lane Fire Flow Water Improvements Project No.7376 (the "Project");

WHEREAS, City desires to retain Consultant to provide such services; and

WHEREAS, Consultant is qualified by virtue of experience, training, education, and expertise to perform the professional services required by this Agreement and has agreed to provide such services.

NOW, THEREFORE, in consideration of the promises and mutual benefits which will result to the Parties in carrying out the terms of this Agreement, it is mutually agreed as follows:

### **AGREEMENT**

#### **I. SCOPE OF WORK**

City agrees to retain Consultant, and Consultant agrees to perform the services set forth in the Scope of Services described in Exhibit "A", attached hereto and by reference made a part of this Agreement (hereinafter the "Services"). Consultant agrees that its provision of Services under this Agreement shall be within accepted standards within the profession, and its specialized services shall be in accordance with customary and usual practices in Consultant's profession. By executing this Agreement, Consultant warrants that it has carefully considered how the work should be performed and fully understands the facilities, difficulties, and restrictions attending performance of the work under this Agreement.

## **II. TERM**

This Agreement shall be effective as of the date first set forth above. This Agreement shall commence upon the effective date of this Agreement, and shall remain and continue in effect until tasks described herein are completed unless otherwise terminated prior to this date pursuant to the provisions of this Agreement.

## **III. FEES**

### **A. Accounting Records**

Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Upon request of City, Consultant shall provide City with all records pertaining to this Agreement.

### **B. Total Payment**

The Parties agree that Consultant shall bill for the Services provided by Consultant to City on an hourly basis and in accordance with the charges and fee schedule attached as Exhibit "B," except as otherwise set forth herein, provided compensation under this Agreement shall not exceed \$124,925.

### **C. Monthly Payment**

1. City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment, as set forth in Exhibit "B," attached hereto based upon actual time spent providing the services outlined in this Agreement. Consultant shall submit to City monthly or periodic statements requesting payment. Such requests shall be based upon the amount and value of the Services performed by Consultant under this Agreement and shall be prepared by Consultant and accompanied by such reporting data including a detailed breakdown of all costs incurred and tasks performed during the period covered by the statement, as may be required by City. Invoices shall be submitted on or about the first business day of each month, for Services provided the prior month. City shall use reasonable efforts to make payment to Consultant within forty-five (45) days after the date of the invoice or as soon thereafter as reasonably practicable. If City determines that the approved written Scope of Work under this Agreement or any specified task hereunder is incomplete, the City Manager, or his or her designee, shall notify Consultant and may withhold the payment amount for the unfinished work accordingly.

2. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager.



#### **IV. TERMINATION**

City may terminate this Agreement for its convenience at any time, with or without cause, in whole or in part, upon giving Consultant thirty (30) days written notice. Upon said notice, City shall pay Consultant its allowable costs incurred to date of termination and those allowable costs determined by City to be reasonably necessary to effect such termination. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City terminates a portion of this Agreement, such termination shall not make void or invalidate the remainder of this Agreement. Thereafter, Consultant shall have no further claims against City under this Agreement. Upon termination of the Agreement pursuant to this Section, Consultant will submit an invoice to City pursuant to Section 3. Consultant may terminate this Agreement, with or without cause, upon thirty (30) days written notice to City.

#### **V. DEFAULT OF CONSULTANT**

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event Consultant is in default, except as provided for in Section XXI, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate the Agreement immediately upon written notice to Consultant.

B. If the City Manager, or his/her designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall notify Consultant in writing of such default. Consultant shall have ten (10) days to cure the default by rendering a satisfactory performance. In the event Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by City as a result of such default including, but not limited to, reprocurement costs of the same or similar services defaulted by Consultant under this Agreement.

#### **VI. LEGAL RELATIONSHIP BETWEEN THE PARTIES**

A. The legal relationship between the Parties hereto is that of an independent contractor, and nothing herein shall be deemed to make Consultant a City employee. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers, employees, or agents. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set

forth in this Agreement. Consultant, its officers, employees, or agents shall not maintain an office or any other type of fixed business location at City's offices.

B. Consultant shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to Consultant, its officers, employees, or agents in connection with any performance under this Agreement. Except for fees paid to Consultant as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for the performance of Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents for injury or sickness arising out of performing Services hereunder. If for any reason, any court or governmental agency determines that City has financial obligations, other than pursuant to Section III herein, of any nature related to salary, taxes, or benefits of Consultant's officers, employees, servants, representatives, subcontractors, or agents, Consultant shall indemnify City for all such financial obligations.

## **VII. MODIFICATIONS AND AMENDMENTS TO AGREEMENT**

No modification or amendment of this Agreement or any of the provisions hereof shall be effective for any purpose unless set forth in writing signed by duly authorized representatives of both Parties.

## **VIII. ASSIGNMENTS AND SUBCONTRACTING**

The experience, knowledge, capability, and reputation of Consultant, its principals and employees were a substantial inducement for City to enter into this Agreement. Consultant may not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written approval of City. Except as otherwise expressly provided in the Scope of Services (Exhibit "A"), Consultant shall not contract with any other person or entity to perform the Services required without written approval of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant as provided for in Section III.

## **IX. SUCCESSORS IN INTEREST**

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

## **X. THIRD PARTY BENEFICIARY**

Except as may be specifically provided for herein, nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as third-party beneficiary or otherwise, upon any entity or person not a party hereto.

## **XI. INSURANCE**

### **A. Insurance Required**

Consultant shall procure and maintain the insurance described herein for the duration of this Agreement, or as otherwise specified herein, against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees. Insurance required herein shall be provided by a reputable insurance company in good standing with the State of California and having a minimum A.M. Best's Guide Rating of A-, Class VII or better. City will require Consultant to substitute any insurer whose rating drops below the levels specified herein. Such substitution shall occur within twenty (20) days of written notice to Consultant by City.

Consultant shall provide to City certificates of insurance in a form acceptable to City indicating the deductible or self-retention amounts and the expiration date of the policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term. The certificates of insurance shall specifically identify this Agreement and shall contain express conditions that City is to be given at least thirty (30) days advance written notice of any material modification in or termination of insurance. Such insurance shall be primary to and not contributing with any other insurance maintained by City and shall name the City of Garden Grove and its officers, councilmembers, officials, employees, agents and volunteers as additional insureds by endorsement to the insurance policies. Except as expressly authorized herein, all insurance shall be on an occurrence basis.

#### **1. Errors and Omissions Insurance**

Consultant shall maintain in full force and effect throughout the term of this Agreement, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per claim or occurrence, in accordance with the provisions of this Section. If the policy of insurance is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing Services under the terms of this Agreement. The coverage shall be

evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

In the event the policy of insurance is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall be obtained for the required period to ensure coverage for the prior acts of Consultant during the course of performing the Services under the terms of this Agreement.

2. Workers' Compensation

Consultant shall obtain and maintain, during the term of this Agreement, Workers' Compensation Employer's Liability Insurance in the statutory amount as required by state law. Such worker's compensation insurance shall be endorsed to provide for a waiver of subrogation against City of Garden Grove, its officers, officials, agents, employees, and volunteers.

**B. Minimum Limits of Insurance**

Consultant shall maintain limits no less than:

1. General Liability:

\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability:

\$1,000,000 per accident for bodily injury and property damage.

3. Employer Liability:

\$1,000,000 per accident for bodily injury or disease.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of Garden Grove, and its councilmembers, officials, officers, employees, agents or volunteers, or Consultant shall procure a bond guaranteeing payment of losses and

related investigations, claim administration and defense expenses, or Consultant shall otherwise provide an alternative satisfactory to the Risk Manager.

**D. Other Insurance Provisions**

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Garden Grove and its councilmembers, officers, officials, employees, agents and volunteers are to be covered as insureds with respect to: liability arising out of activities performed by or on behalf of Consultant; 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 the Garden Grove Sanitary District, the City of Garden Grove, the Garden Grove Agency for Community Development and their respective councilmembers, board members, officers, officials, employees, agents, or volunteers.

2. For any claims related to this Agreement, Consultant's coverage shall be primary insurance as respects the City and its councilmembers, officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by Garden Grove Sanitary District, the City of Garden Grove, the Garden Grove Agency for Community Development and their respective councilmembers, board members, officers, officials, employees, agents, and volunteers shall be in excess of Consultant's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies, including breaches of warranties shall not affect coverage provided to the City of Garden Grove and its respective councilmembers, board members, officers, officials, employees, agents, and volunteers.

4. 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.

5. Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been provided to City.

6. Consultant agrees to ensure that subcontractors, and any other parties involved with the project who are brought onto or involved in the project by Consultant, provide the same minimum insurance coverage 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 subcontractors and others engaged in the project will be submitted to City for review.

**E. Verification of Coverage**

Consultant shall furnish City with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by City before work commences.

**XII. INDEMNITY**

**A. Indemnification**

To the fullest extent permitted by law, Consultant shall indemnify, defend (at Consultant's sole cost and expense), protect and hold harmless the City of Garden Grove and its councilmembers, officers, officials, employees, agents, and volunteers, (individually "Indemnified Party"; collectively "Indemnified Parties") against any and all liability, claims, judgments, costs, and demands (collectively, "Claims"), including Claims arising from injuries or death of persons (Consultant's employees included) and damage to property, which Claims arise out of, pertain to, or are related to the negligence, recklessness or willful misconduct of Consultant, its agents, employees, or subcontractors, or arise from Consultant's negligent, reckless or willful performance of or failure to perform any term, provision, covenant or condition of this Agreement ("Indemnified Claims"), but Consultant's liability for Indemnified Claims shall be reduced to the extent such Claims arise from the negligence, recklessness or willful misconduct of the City of Garden Grove and its councilmembers, officers, directors, officials, employees, or agents.

Consultant shall reimburse the Indemnified Parties for any reasonable expenditures, including reasonable attorneys' fees, expert fees, litigation costs and expenses that each Indemnified Party may incur by reason of Indemnified Claims. Upon request by an Indemnified Party, Consultant will defend with legal counsel reasonably acceptable to the Indemnified Party all Claims against the Indemnified Party that may arise out of, pertain to, or relate to Indemnified Claims, whether or not Consultant is named as a party to the Claim proceeding. The determination whether a Claim may "arise out of, pertain to, or relate to" Indemnified Claims shall be based on the allegations made in the Claim and the facts known or subsequently discovered by the parties. In the event a final judgment, arbitration award, order, settlement, or other final resolution expressly determines that Claims did not arise out of, pertain to, nor relate to the negligence, recklessness or willful misconduct of Consultant to any extent, then City will reimburse Consultant for the reasonable costs of defending the Indemnified Parties against such Claims, except City shall not reimburse Consultant for attorneys' fees, expert fees, litigation costs and expenses as were incurred defending Consultant or any parties other than Indemnified Parties against such Claims.

Consultant's liability for indemnification hereunder is in addition to any liability Consultant may have to City for a breach by Consultant of any of the provisions of this Agreement. Under no circumstances shall the insurance requirements and limits

set forth in this Agreement be construed to limit Consultant's indemnification obligation or other liability hereunder. The terms of this Agreement are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement.

Consultant's indemnification obligation hereunder shall survive the expiration or earlier termination of this Agreement until all actions against the Indemnified Parties for such matters indemnified hereunder are fully and finally barred by the applicable statute of limitations or, if an action is timely filed, until such action is final. This provision is intended for the benefit of third party Indemnified Parties not otherwise a party to this Agreement.

### **XIII. COMPLIANCE WITH LAW**

A. Consultant certifies by the execution of this Agreement the following: that it pays employees not less than the minimum wage as defined by law and that it does not discriminate in its employment with regard to race, color, religion, sex, age, marital status, ancestry, or national origin; that Consultant is in compliance with all federal and state laws, local directives, and executive orders regarding non-discrimination in employment; and that Consultant agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Consultant shall keep itself informed of State and Federal laws and regulations, which in any manner affect those employed by it or in any way affect the performance of its Services pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws and regulations. The City of Garden Grove and its councilmembers, officers, employees, and agents shall not be liable at law or in equity for Consultant's failure to comply with such laws and regulations.

### **XIV. LICENSES AND QUALIFICATIONS**

Consultant represents and warrants to City that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that is legally required to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval, which is legally required for Consultant to perform Services under this Agreement.

### **XV. CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTS**

A. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or subcontractors

shall not without written authorization from the City Manager or unless requested by City's Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the Services performed under this Agreement or relating to any project or property location within City. Response to a subpoena or court order shall not be considered "voluntary" for the purposes of this Section, provided Consultant gives City proper notice of such subpoena or court order. Consultant shall properly notify City of any summons, complaints, subpoenas, notice of deposition, request for documents, interrogatories, requests for admissions or other discovery requests received by Consultant, its officers, employees, agents or subcontractors, related to Services performed pursuant to this Agreement. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding, the cost of which shall be borne by City. Consultant agrees to cooperate fully with City and to provide City with an opportunity to review and respond to discovery requests provided by Consultant, arising out of Services performed pursuant to this Agreement. However, City's right to review any such request or response does not imply or mean City has the right to control, direct, write or rewrite said response.

B. The documents and study materials for this project shall become the property of City upon the termination or completion of the work. Consultant agrees to furnish to City copies of all memoranda, correspondence, computation, and study materials in its files pertaining to the work described in this Agreement, which is requested in writing by City.

#### **XVI. INTERPRETED UNDER LAWS OF THE STATE OF CALIFORNIA**

This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof. Venue for any litigation concerning this Agreement shall be in the Superior Court for the County of Orange, California.

#### **XVII. ATTORNEYS' FEES**

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which they may be entitled.



**XVIII. WAIVER**

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

**XIX. NOTICES**

All notices or other communications required or permitted hereunder shall be in writing and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by electronic 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 electronic transmission. Any notice, request, demand, direction, or other communication sent by electronic transmission must be confirmed within forty-eight (48) hours by letter mailed or delivered. Notices or other communications shall be addressed as follows:

To City: City of Garden Grove  
13802 Newhope Street  
Garden Grove, CA 92843  
Attention: Project Engineer

To Consultant: Psomas  
3 Hutton Centre Drive, Suite 200  
Santa Ana, CA 92707  
Attention: Neha Gajjar, P.E.

Either Party may, by written notice to the other, designate a different address, which shall be substituted for that specified above.

**XX. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements, representations, and understandings, if any, made by or among the parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both parties hereto, or their respective successors, assigns, or grantees.

**XXI. FORCE MAJEURE**

If either party shall be delayed or prevented from the performance of any service under this Agreement by reason of acts of God, strikes, lockouts, labor troubles, restrictive governmental laws or regulations or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of delay, and the period for performance of any such act shall be extended for a period equivalent to the period of such delay.

**XXII. TIME IS OF THE ESSENCE**

The Parties agree that time is of the essence of this Agreement with respect to the deadlines set forth herein.

**XXIII. SEVERABILITY**

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be invalid under the applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement.

**XXIV. PROHIBITED INTERESTS**

Consultant covenants that, for the term of this Agreement, no Board Member, official, officer or employee of City during his/her tenure in office/employment, or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant warrants that it has not given or paid and will not give or pay any third party money or other consideration for obtaining this Agreement.

**XXV. SCOPE CHANGES**

In the event of a change in the scope of the proposed project, as requested by City, the Parties hereto shall execute an addendum to this Agreement, setting forth, with particularity, all terms of the new Agreement, including but not limited to any additional Consultant's fees.

**XXVI. 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 its successor, or for breach of any obligation of the terms of this Agreement.

**XXVII. AGREEMENT EXECUTION AUTHORIZATION**

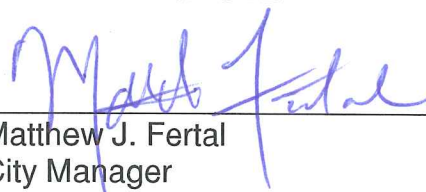
Each of the undersigned represents and warrants that he or she is duly authorized to execute and deliver this Agreement and that such execution is binding upon the entity for which he or she is executing this Agreement.

**XXVIII. RECITALS**


The Recitals above are hereby incorporated into this section as though fully set forth herein and each party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

IN WITNESS WHEREOF, this Agreement has been executed in the name of City, by its officers thereunto duly authorized, and Consultant as of the day and year first above written.

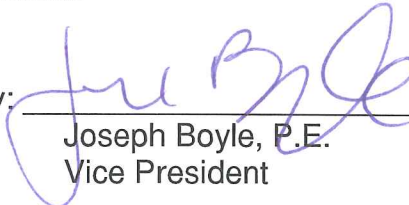
CITY OF GARDEN GROVE

By:   
Matthew J. Fertal  
City Manager

ATTEST:

By:   
Kathy Bailor  
City Clerk

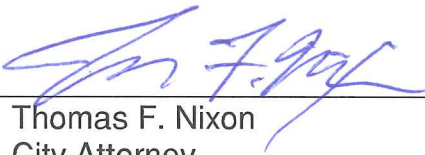
Psomas

By:   
Joseph Boyle, P.E.  
Vice President

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a Partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

Woodruff, Spradlin & Smart

By:   
Thomas F. Nixon  
City Attorney

**UNANIMOUS WRITTEN CONSENT  
OF THE  
BOARD OF DIRECTORS  
OF  
PSOMAS  
a California corporation**

February 25, 2014

**THE UNDERSIGNED**, being all of the members of the Board of Directors of Psomas, a California corporation (the "Corporation"), hereby adopt the following resolutions without a meeting as of the date set forth above, pursuant to Section 307(b) of the General Corporation Law of California:

**RESOLVED** that the following, being the Officers of the Corporation, be and hereby are authorized to execute any and all documents required to conduct the business of the Corporation, including, but not limited to contracts, leases and certifications;

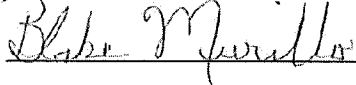
**IT IS FURTHER RESOLVED** that any one signature of the Officers listed herein shall be sufficient to bind the Corporation;

TIMOTHY G. PSOMAS	Chairman Emeritus
BLAKE N. MURILLO	Chairman, Chief Executive Officer
JACOB LIPA	President
LOREN L. SOKOLOW	Chief Financial Officer, Treasurer, Assistant Secretary
DEBRA TILSON LAMBECK	Vice President, Secretary
CRAIG AHRENS	Vice President
CHRISTINA ANDERSEN	Vice President
ALEJANDRO ANGEL	Vice President
ROSS W. BARKER	Vice President
TEDDY C. BOLDEN, II	Vice President
JOSEPH L. BOYLE	Vice President
KATHLEEN BRADY	Vice President
BRIAN E. BULLOCK	Vice President
AGUSTIN CHANG	Vice President
JEFFREY CHESS	Vice President
HAN CHU	Vice President
MATTHEW D. CLARK	Vice President
MICHAEL J. CREHAN	Vice President
MIKE DALY	Vice President
PAUL J. ENNEKING	Vice President
JEREMY L. EVANS	Vice President
PETER FITZPATRICK	Vice President
STEVEN FRIESON	Vice President
HARVEY GOBAS	Vice President
ERNEST GOMEZ	Vice President
CRAIG GOOCH	Vice President
DANNIE B. GREEN	Vice President
ANDREW N. GUST	Vice President
TIMOTHY G. HAYES	Vice President
MELISSA HOWE	Vice President
ROBERT J. IANNARINO	Vice President
ANN JOHNSTON	Vice President
JOAN PATRONITE KELLY	Vice President
BRUCE KIRBY	Vice President
MICHAEL G. KREMER	Vice President
NATALIE KYRIAKOUDIS	Vice President

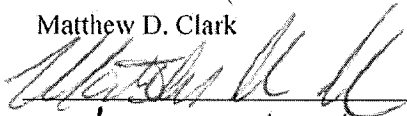
KARI J. LAUNEN	Vice President
THOMAS C. LODGE	Vice President
STEVE MARGARONI	Vice President
PAT McGARRITY	Vice President
THOMAS P. McGOVERN	Vice President
RYAN E. McLEAN	Vice President
STEVE MENDENHALL	Vice President
JOEL B. MILLER	Vice President
DAVID A. MORITZ	Vice President
LESLIE MORTON	Vice President
ROBERT C. OLSON	Vice President
MICHAEL POLLARD	Vice President
DANA PRIVITT	Vice President
RICH RADOYCIS	Vice President
SCOTT ROCKE	Vice President
MATTHEW J. ROWE	Vice President
CLIFF SIMENTAL	Vice President
KENNETH D. STRAM	Vice President
MICHAEL D. SWAN	Vice President
ROBERT J. TALAFUS	Vice President
JOHN R. THORNTON	Vice President
REUBEN TOLENTINO	Vice President
SEAN P. VARGAS	Vice President
ANISSA VOYIATZES	Vice President
DONALD L. WHITELEY	Vice President
LENI ZARATE	Vice President

This Unanimous Written Consent shall be filed with the Minutes of the proceedings of the Board of Directors, and the actions taken hereby shall have the same force and effect as if taken at a meeting duly called and held.

Blake Murillo

  
\_\_\_\_\_

Matthew D. Clark

  
\_\_\_\_\_

Gary H. Hunt

  
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Ryan McLean

  
\_\_\_\_\_

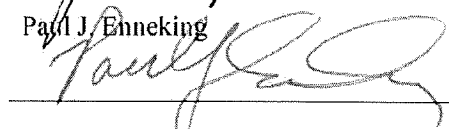
Donald L. Whiteley

  
\_\_\_\_\_

Jacob Lipa

  
\_\_\_\_\_

Paul J. Enneking

  
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Steve Margaroni

  
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Avedick B. Poladian

  
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**EXHIBIT A**

**SCOPE OF SERVICES**



SECTION  
**2** Scope of Work

## INTRODUCTION

Based on the Scope of Services outlined in the Request for Proposal (RFP), which is incorporated herein by reference as an integral part of this proposal, the following is our proposed Scope of Work to complete the project.

## PROJECT TASKS

### Task I — Project Management, Meetings and Coordination

**1.1 Project Management:** We will provide project management to ensure adherence to the project schedule and budget and to document all communication between Psomas and the City.



West Street

**1.2 Meetings:** At the commencement of the project, Psomas will hold a “kick-off” meeting with City staff to discuss the scope and parameters of the project. We will arrange for and participate in review meetings with City staff to review progress of the project work and exchange ideas and information at the 25%, 60% and 90% design stages. We assume the 99% and 100% comments will not require a review meeting, but may be addressed via telephone and/or email. We have budgeted for a total of four (4) meetings.

We will prepare and submit minutes for each project meeting summarizing the participating personnel, key discussion comments and decisions, documents delivered or received, and actions required.

**1.3 Coordination:** We will coordinate efforts of the project team and subconsultants with representatives of utilities and other government agencies to determine requirements to be included in the construction documents.

### Task II — Preliminary Investigations and Design Survey

The task is for preliminary investigations and design survey and is dedicated to collecting information available from the City and performing ground



control and survey. This task will also include a detailed field reconnaissance to become familiar with the project area and to note all visible relevant features along the pipeline alignment, including major utility structures within the street right-of-way, existing driveways or frontage properties.

**2.1 Initial / Kickoff Meeting:** Set up and attend an initial/kickoff meeting with the City to introduce project team members, formalize project communication, discuss project schedule, review scope of work, and request available data, reports, documents, and plans from the City that are relevant to the Project.

*Deliverables: Meeting Agenda; Meeting Minutes.*

**2.2 Records & Requirements Search:** Perform record and data search consisting of survey information (centerline control, bench marks, assessor maps, parcel maps, record of survey, easements, etc.) and utility information consisting of existing water, sewer, and other utilities along the subject alignment. In addition, we will document our contact and coordination with other public and private agencies involved to inform them about the project and obtain their records, approval, and permit requirements.

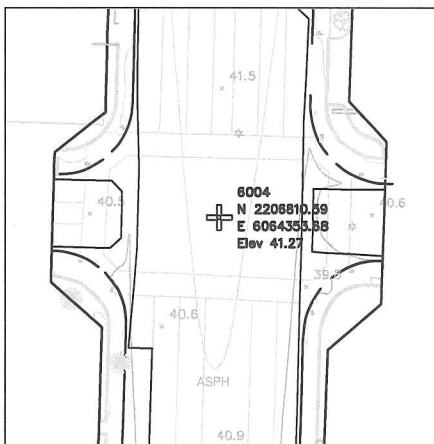
*Deliverables: Utility Coordination Correspondence (part of Design Notebook at Final Submittal)*

**2.3 Ground Control and Survey:** Psomas will establish project survey control using a combination of fast-static GPS and conventional survey methods. Horizontal control will be relative to the North American Datum of 1983 (NAD83), with coordinates based on the California Coordinate System (CCS83, Zone VI, 2011.00 epoch) as published by the California Spatial Reference Center (CSRC). Vertical control will be based on the City of Garden Grove benchmark system, relative to the North American Vertical Datum of 1988 (NAVD88), or another datum at the direction of the City's engineering staff.

Conventional topographic mapping would be conducted from right-of-way to right-of-way and would include the collection items such as top of curb, flow line, edge of gutter, back of walk, walls, fences, roadway, driveway and surface and above ground utilities.

Once fieldwork has been completed, the survey data will be reviewed, reduced and imported into a CAD base-file (AutoCAD 2012 format or others as requested). Field located topographic and utility features will be labeled with their respective point number, elevation and descriptions. Psomas office surveyors will produce a Topographic base-file of the surveyed scope at a mapping scale of 1" = 40', including surface contours at one-foot intervals. We have budgeted for up to 20 sewer and/or storm drain structures within the scope to be dipped, detailed and photographed at the direction of the design team.

*Deliverables: Topographic Map for Base File and Survey Data in Text Format (part of Design Notebook at Final Submittal)*



Typical survey topographical mapping

### Task III — Preliminary Engineering

**3.1 Draft Preliminary Design Report:** Prepare a Draft Preliminary Design Report (PDR) representing a 25% completion of the project design, summarizing the preliminary design complete with calculations and recommendations for use during the final design. The Draft PDR will include the following:



Timmy Lane/Candy Lane

- A. Preliminary plan view of proposed waterline alignment
- B. Permit and easement requirements for waterline construction
- C. Preliminary schedule and estimated construction costs
- D. Recommendations of construction requirements and sequencing
- E. Environmental documents required for project processing

**Deliverables:** *Draft Preliminary Design Report (7 copies)*

**3.2 PDR Submittal Review Meeting:** Meet with City staff to review comments on the Draft PDR and respond to comments.

**Deliverables:** *Meeting Agenda; Meeting Minutes*

**3.3 Final Preliminary Design Report:** Revise the PDR as necessary based on comments received from the meeting and submit seven (7) copies of the Final PDR to City.

**Deliverables:** *Final Preliminary Design Report (7 copies)*

### Task IV — Final Engineering

The Final PDR will serve as the outline for executing the final design services which includes the following items:

**4.1 Permits and Utility Coordination:** Coordinate and submit the 60% and 90% Construction Drawings to permitting agencies and utility companies with copies of all correspondence and submittals to the City. Comments received from the various agencies will be incorporated into the final design.

**Deliverables:** *Copies of correspondence with utility companies (part of Design Notebook at Final Submittal)*

**4.2 Utility Verification and Potholing:** Perform utility verification by potholing using an air vacuum excavation technique. Resulting pothole data will be accurately shown on the construction drawings. Per the RFP, a maximum of 20 potholes have been included in this proposal. All phone and electric underground will be exposed from top to bottom of structure, if possible. The exact quantity and location of the potholes will be determined after the City's review of the 60% design.

If required, traffic control plans will be prepared for potholing operations and submitted to the City for acquisition of an encroachment permit. After potholing, the pavement will be repaired using Perma-Patch or quick-set concrete.

**Deliverables:** *Pothole Investigation Report*



**4.3 Geotechnical Investigation:** Perform a geotechnical investigation to provide existing subsurface conditions for use of the street rehabilitation design. We propose to perform two (2) soil boring tests at a maximum depth of 10 feet within Wilken Way and Eugene Street. The exact location of the potholes will be determined after the City’s review of the 60% design.

If required, traffic control plans per WATCH Manual will be prepared for boring operations and submitted to the City for acquisition of an encroachment permit. After soil borings are performed, the pavement will be repaired using Perma-Patch or quick-set concrete, depending on if groundwater is encountered.

**Deliverables: Geotechnical Investigation Report**

**4.4 Construction Plans, Specifications, and Engineer’s Estimate at 60%, 90%, 99%, and 100% Stages of Design:** Prepare construction drawings, specifications, and engineer’s construction cost estimate incorporating any comments received from the City, utility companies, and outside

agencies. The construction specifications will include the City’s contract boilerplate documents, construction sequencing, and technical specifications. The construction plans will consist of the following sheets at a minimum:

Seven (7) sets of the full Progress Submittal Package will be sent to the City for review. This includes the construction plans, specifications, cost estimates, and calculations.

The following list outlines a suggested level of completion for various milestone submittals. These will be discussed with the City at the Kick-off Meeting:

Plan Sheets	Description
1	Title Sheet
2	Construction and General Notes, Abbreviations, Legend
3	Standard Plans and Typical Details
4-5	Plan and Profile - West Street
6	Plan and Profile - West Street and Chapman Avenue
7-8	Plan and Profile - Wilken Way
9	Plan and Profile - Candy Lane
10	Plan and Profile - Candy Lane and Holyoak Lane
11	Plan and Profile - Holyoak Lane
12	Plan and Profile - Timmy Lane and Debbie Lane
13-14	Connection Enlargement Details (8)
15	Miscellaneous Details

A. 60% Submittal – This submittal will include preliminary horizontal and selected segments of vertical alignments, utility crossings, and abandonment methods. The submittal package will account for and be comprised of the following:

1. Completed Base Map
2. Preliminary Calculations
3. Completed Base Drawing with Street Data and Existing Utilities
4. Completed Title Sheet (Including Vicinity Map, Location Map, & Index)
5. Index Map (Substantially Complete)
6. General Notes, Abbreviations, Legend (Substantially Complete)
7. Horizontal Alignment w/ Stationing & Control (Substantially Complete)
8. Standard Details (Substantially Complete)

9. Preliminary Project Specific Details
  10. Preliminary Annotations
  11. Technical Specifications (Table of Contents Only)
  12. Preliminary Engineer's Estimate
- B. 90% Submittal – This submittal will have a completed horizontal alignment, and partially completed vertical alignment, construction notes, plan annotations, connection details, and project details. The submittal package will account for and be comprised of the following:
1. All Items “Completed” in the 60% Milestone Submittal
  2. Completed Potholing Information
  3. Completed Final Calculations
  4. Completed Index Map
  5. Completed General Notes, Abbreviations, and Legend
  6. Completed Horizontal Alignment w/ Stationing & Control
  7. Vertical Profile (Substantially Complete)
  8. Completed Standard Details
  9. Connection Enlargement Details (Substantially Complete)
  10. Project Specific Details (Substantially Complete)
  11. Plan Annotations (Substantially Complete)
  12. Technical Specifications (Substantially Complete)
  13. Front End Documents (Substantially Complete)
  14. Engineer's Estimate (Substantially Complete)
  15. Completed Utility Coordination
- C. 99% Submittal – This submittal is deemed the pre-final submittal and is the City's final opportunity for review prior to Mylar production. The construction plans will include a completed horizontal and vertical alignment, completed details, and completed plan annotations. The project specifications will include completed technical specifications and completed front end documents (City's boilerplate).
- D. 100% Submittal – This submittal is considered the final submittal and will serve as a back check to make sure all comments from the 99% submittal was addressed.

*Deliverables: Seven (7) copies of 60% Design Submittal, 90% Design Submittal, and 99% Design Submittal and three (3) copies of the 100% Design Submittal*

- 4.5 Progress Submittal Review Meetings:** Arrange a review meeting with City staff at the 60% and 90% submittal milestones to discuss the design, collect and respond to review comments. We assume the 99% and 100% comments will not require a review meeting, but may be addressed via telephone and/or email.

*Deliverables: Meeting agenda; meeting minutes*

- 4.6 Final Deliverable:** Submit one (1) bond copy of the construction plans along with a reverse read Mylar set. Drawings will be 24-inch by 36-inch in size, drawn at 40 scale plan view and 4 scale vertical. Details will

be 20 scale or less. All drawings shall conform to City standards and will be signed and stamped by a registered civil engineer in the State of California. Project specifications will also be signed and stamped by the Engineer of Record. Two (2) copies of the specifications will be submitted, one bound and the other unbound. We will provide the City with two (2) copies of the project design notebook. The design notebook will include all pertinent correspondence, calculations, quantity and cost estimates. The final project design notebook will be signed and stamped by the project engineer of record.

We will also submit a CD containing the AutoCAD files (without x-references), specifications in MS Word format, the engineer's cost estimate in MS Excel format, and surveying data in text format for the project.

*Deliverables: Final Design Submittal which includes one (1) bond copy of construction plans; one (1) Mylar copy of construction plans; one (1) bound copy of project specifications; one (1) unbound copy of project specifications; CD with digital files and two (2) copies of Design Notebook*

**4.7 Environmental Documentation:** The California Environmental Quality Act (CEQA) identifies classes of projects that are exempt in an effort to streamline the review process. Based on our research and experience with similar projects, we believe this project would be considered a Categorical Exemption (CE). This project appears consistent with actions permitted under a Class 2 CE. The Class 2 CE covers "replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced."

Since we do not anticipate anything more than the filing of a CE, we have not included any work effort in our scope of work and expect the City will file and process the necessary documentation.

**4.8 Bid Phase Assistance:** Provide necessary support services to the City during the project bid phase. Support services shall include the following:

- A. Attendance at Pre-Bid Meeting
- B. Answering contractor's questions and providing clarifications
- C. Issuing one (1) project addendum

*Deliverables: Project addendum and design clarifications*

## EXCLUSIONS

The following items are not included in the Scope of Work above:

- A. Traffic control plans for pipeline construction
- B. Construction administration
- C. Construction observation
- D. Construction staking

**EXHIBIT B**

**SCHEDULE OF PAYMENT**



SECTION

# 7 Fee Proposal and Current Fee Schedule

Scope of Work Tasks	Labor Hours										Total Hours	Fee	Subconsultants		Direct Costs	Total Fee					
	PM	QA/QC	PE	SE	SE	CADD	Admin.	Survey	Pothole	Geotech											
	\$162	\$196	\$150	\$120	\$95	\$120	\$75	\$165													
<b>TASK I: PROJECT MANAGEMENT, MEETINGS AND COORDINATION (Incorporated in Task II - IV)</b>																					
<b>TASK II: PRELIMINARY INVESTIGATION AND DESIGN SURVEY</b>																					
2.1 Initial Kick-off Meeting	4	0	3	0	0	0	0	1	0	0	0	0	0	0	0	0	\$1,173	\$0	\$0	\$100	\$1,273
2.2 Records and Requirements Search	0	0	4	16	0	0	0	6	0	0	0	0	0	0	0	0	\$2,970	\$0	\$0	\$200	\$3,170
2.3 Ground Control and Survey	0	0	0	0	0	0	0	0	0	0	0	164	0	0	0	0	\$27,060	\$0	\$0	\$100	\$27,160
Subtotal Task II:	4	0	7	16	0	0	0	7	0	0	0	164	0	0	0	0	\$31,203	\$0	\$0	\$400	\$31,603
<b>TASK III: PRELIMINARY ENGINEERING</b>																					
3.1 Draft Preliminary Design Report	12	3	27	0	67	59	1	1	0	0	0	0	0	0	0	0	\$20,102	\$0	\$0	\$250	\$20,352
3.2 Preliminary Design Submittal Meeting	4	0	3	0	0	0	1	1	0	0	0	0	0	0	0	0	\$1,173	\$0	\$0	\$50	\$1,223
3.3 Final Reliminary Design Report	5	1	12	0	29	25	0	0	0	0	0	0	0	0	0	0	\$8,561	\$0	\$0	\$250	\$8,811
Subtotal Task III:	21	4	42	0	96	84	2	2	0	0	0	0	0	0	0	0	\$29,836	\$0	\$0	\$550	\$30,386
<b>TASK IV: FINAL ENGINEERING</b>																					
4.1 Permits and Utility Coordination	2	0	8	16	0	0	8	0	0	0	0	0	0	0	0	0	\$4,044	\$0	\$0	\$200	\$4,244
4.2 Utility Verification and Potholing	0	0	2	0	4	0	0	0	0	0	0	0	0	0	0	0	\$680	\$17,724	\$0	\$0	\$18,404
4.3 Geotechnical Investigation	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$324	\$0	\$6,773	\$0	\$324
4.4 Prepare Plans, Specs, and Estimates (60%, 90%, 99% and 100%)	17	4	39	0	96	84	2	2	0	0	0	0	0	0	0	0	\$28,738	\$0	\$0	\$1,000	\$29,738
4.5 Submittal Review Meetings (60%, 90%, 99% and 100% teleconference)	10	0	8	0	0	0	4	0	0	0	0	0	0	0	0	0	\$3,120	\$0	\$0	\$150	\$3,270
4.6 Final Deliverables	2	0	8	6	6	0	8	0	0	0	0	0	0	0	0	0	\$3,414	\$0	\$0	\$300	\$3,714
4.7 Environmental Documentation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
4.8 Bid Phase Assistance	6	0	8	0	6	0	6	0	0	0	0	0	0	0	0	0	\$3,192	\$0	\$0	\$50	\$3,242
Subtotal Task IV:	39	4	73	22	112	84	28	28	0	0	0	0	0	0	0	0	\$43,512	\$17,724	\$6,773	\$1,700	\$62,936
<b>Total Estimated Hours and Fee (Tasks I-IV)</b>	<b>64</b>	<b>8</b>	<b>122</b>	<b>38</b>	<b>208</b>	<b>168</b>	<b>37</b>	<b>164</b>	<b>164</b>	<b>809</b>	<b>\$104,551</b>	<b>\$17,724</b>	<b>\$6,773</b>	<b>\$2,650</b>	<b>\$124,925</b>						

**PM:** Project Manager; N. Gajjar (\$165/hr)  
**QA/QC:** Quality Assurance/Quality Control; J. Guierrez (\$198/hr)  
**PE:** Project Engineer; Maria Torres (\$150/hr)  
**SE:** Staff Engineer; Nancy Heim (\$120/hr)  
**SE:** Staff Engineer; Kiko Antunovich (\$95/hr)  
**CADD:** CAD Designer; John Kaneshiro (\$120/hr)  
**ADMIN:** Project Administration; Daisy Cavellano (\$75/hr)  
**Survey:** Potholes Survey; Field Crew and Office (\$165/hr)

**SUBCONSULTANTS**  
**Pothole:** C Below  
**Geotech:** Hushmand Associates, Inc.

# HOURLY RATE SCHEDULE

For Services by Psomas

Effective through December 2014

## Water and Wastewater Engineering Services

\$ 65 - \$ 85	Project Assistant, Administrative Assistant
\$ 65 - \$ 95	Engineering Assistant
\$ 70 - \$100	CAD Designer
\$ 80 - \$125	Lead CAD Designer
\$ 80 - \$125	Civil Engineer Designer
\$ 90 - \$130	Professional Engineer, Surveyor
\$120 - \$130	Field Survey Supervisor
\$120 - \$160	Project Engineer, Project Surveyor, Senior Environmental Scientist
\$120 - \$195	Senior Project Engineer
\$150 - \$190	Project Manager
\$165 - \$230	Senior Project Manager, QA/QC Manager, Principal-In-Charge
\$210 - \$245	Two-Man Survey Crew

- Standard computer and technology costs are incorporated into these hourly rates, as well as direct labor, overhead, fringe benefits and fee
- Survey and other specialty equipment will be charged at a per unit per day rate
- Expert witness testimony is two times the normal rate
- Per Diem is calculated at current State Department of Transportation rates (or other appropriate Agency rate)

## Reimbursables

Mileage at \$0.565 per mile (or current IRS allowable rate) and parking expenses incurred by office employees are charged at cost. Prints, plots, messenger service, subsistence, air travel, and other direct expenses will be charged at cost plus ten percent. The services of outside consultants will be charged at cost with a 5% markup.





AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_



## ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Dealey, Renton & Associates		NAMED INSURED PSOMAS 555 South Flower Street, Suite 4300 Los Angeles CA 90071	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

### ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

The City of Garden Grove and its councilmembers, officers, officials, employees, agents and volunteers is/are additional Insured as respects to General and Auto Liability as required by written contract. Primary and Non-Contributing coverage, Cross Liability, Waiver of subrogation applies to General Liability as required by written contract. Waiver of Subrogation or Rights applies to Workers Compensation policy only as required by a written signed contract prior to any loss occurring.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BLANKET ADDITIONAL INSURED – WRITTEN CONTRACTS (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is limited as follows:

- c. In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
- d. This insurance does not apply to the rendering of or failure to render any "professional services" or construction management errors or omissions.
- e. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured ap-

plies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The insurance provided to the additional insured is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But this insurance provided to the additional insured still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any "other insurance".

3. The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

#### Duties Of An Additional Insured

As a condition of coverage provided to the additional insured:

- a. The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
  - ii. The names and addresses of any injured persons and witnesses; and
  - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
  - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d. The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of other insurance which would cover the additional insured for a loss we cover. However, this condition does not affect whether this insurance provided to the additional insured is primary to that other insurance available to the additional insured which covers that person or organization as a named insured.

4. The following is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

POLICY NUMBER: 630265M676A ✓

COMMERCIAL GENERAL LIABILITY  
ISSUE DATE: 10/15/2013-14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

AS REQUIRED BY WRITTEN CONTRACT

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV-COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or

damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazards." This waiver applies only to the person or organization shown in the Schedule above.

CG 24 04 10 93 ✓

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Page 1 of 1

Reviewed and approved as to insurance language  
and/or requirements.

*Heidi M. Jay*  
Risk Management  
5-21-14



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <b>A. BROAD FORM NAMED INSURED</b>                                  | <b>H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT</b>  |
| <b>B. BLANKET ADDITIONAL INSURED</b>                                | <b>I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b> |
| <b>C. EMPLOYEE HIRED AUTO</b>                                       | <b>J. PERSONAL EFFECTS</b>  |
| <b>D. EMPLOYEES AS INSURED</b>                                      | <b>K. AIRBAGS</b>   |
| <b>E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b>                 | <b>L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS</b>                    |
| <b>F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS</b> | <b>M. BLANKET WAIVER OF SUBROGATION</b>                               |
| <b>G. WAIVER OF DEDUCTIBLE – GLASS</b>                              | <b>N. UNINTENTIONAL ERRORS OR OMISSIONS</b>                           |

### PROVISIONS

#### A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and

executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

COMMERCIAL AUTO

2. The following replaces Paragraph b. in B.5., **Other Insurance**, of SECTION IV – BUSINESS AUTO CONDITIONS:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

**D. EMPLOYEES AS INSURED**

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

**E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS**

1. The following replaces Paragraph A.2.a.(2), of SECTION II – LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of SECTION II – LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS**

The following replaces Subparagraph (5) in Paragraph B.7., **Policy Period, Coverage Territory**, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or

within such country or jurisdiction, for Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., Limit Of Insurance, of SECTION II – LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., Limit Of Insurance, of SECTION II – LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available

to the "insured" whether primary, excess contingent or on any other basis.

- (c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

#### G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

#### H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

#### I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

#### J. PERSONAL EFFECTS

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

##### Personal Effects

We will pay up to \$400 for "loss" to wearing apparel and other personal effects which are:

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Effects coverage.

#### K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

#### L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".



**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of SECTION IV – BUSINESS AUTO CONDITIONS:

**5. Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

such contract. The waiver applies only to the person or organization designated in such contract.

**N. UNINTENTIONAL ERRORS OR OMISSIONS**

The following is added to Paragraph B.2., **Concealment, Misrepresentation, Or Fraud**, of SECTION IV – BUSINESS AUTO CONDITIONS:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.



WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 99 03 76 ( A) -

POLICY NUMBER: UB6A526643 ✓

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS  
ENDORSEMENT - CALIFORNIA  
(BLANKET WAIVER)

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

The additional premium for this endorsement shall be \_\_\_\_\_ % of the California workers' compensation premium.

Schedule

Person or Organization

Job Description

FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO  
FURNISH THIS WAIVER

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 10/15/2013-14  
Insured Psomas

Policy No. UB6A526643 ✓

Endorsement No  
Premium

Insurance Company

Countersigned by Karin Thosp

DATE OF ISSUE: 10/15/2013-14 ST ASSIGN:

Page 1 of 1

Reviewed and approved as to insurance language  
and/or requirements.

Heidi M. Jay  
Risk Management  
5-21-14

CONTRACT WITH PSOMAS TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR PROJECT NO. 7376 - WEST STREET/CANDY LANE FIRE FLOW WATER IMPROVEMENTS PROJECT (F: 112.proj.7376)

It was moved by Council Member Jones, seconded by Council Member Nguyen that:

The Contract for professional engineering services for Project No. 7376 - West Street/Candy Lane Fire Flow Water Improvements Project No. FF010 be awarded to Psomas, in the amount of \$124,925; and

The City Manager be authorized to execute the agreement on behalf of the City, and make minor modifications as appropriate.

The motion carried by a 5-0 vote as follows:

Ayes: (5) Beard, Broadwater, Jones, Nguyen, Phan  
Noes: (0) None  
Absent: (0) None



AWARD A CONTRACT TO PSOMAS FOR PROFESSIONAL ENGINEERING SERVICES  
FOR PROJECT NO 7376 - WEST STREET/CANDY LANE FIRE FLOW WATER  
IMPROVEMENTS PROJECT NO. FF010

May 13, 2014

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	<b>Psomas</b> Santa Ana, CA	<b>Carollo Engineers, Inc</b> Irvine, CA	<b>AECOM</b> Orange, CA	<b>Civiltec</b> La Verne, CA
<i>Rater A</i>	157	156.5	148.5	147
<i>Rater B</i>	180.5	180	174	173.5
<i>Rater C</i>	166.5	165	161.5	160.5
<b>Totals</b>	<b>504</b>	<b>501.5</b>	<b>484</b>	<b>481</b>

Staff has negotiated a proposed agreement with Psomas as the most qualified company.

FINANCIAL IMPACT

The cost of this project is \$124,925 and will be financed with Water Funds. There will be no impact to the General Fund.

RECOMMENDATION

It is recommended that the City Council:

- Award the contract for professional engineering services to Psomas for Project No. 7376 - West Street/Candy Lane Fire Flow Water Improvements Project No. FF010, in the amount of \$124,925; and.
- Authorize the City Manager to execute the agreement on behalf of the City, and make minor modifications as appropriate.

  
WILLIAM E. MURRAY, P.E.  
Public Works Director

By:   
Rebecca Li, P.E.  
Associate Engineer

Approved for Agenda Listing

  
Matthew Fertal  
City Manager

Attachment: 1) Location Map  
2) Professional Services Agreement

