

**CONTRACT FOR CONSULTING SERVICES
BETWEEN THE CITY OF LONG BEACH AND**

**NAME
STREET AND P.O. BOX ADDRESS
CITY, STATE, ZIP
TELEPHONE NO.
FAX NO.**

THIS CONTRACT is made and entered into, in duplicate, as of the date executed by the Chief Executive of the Long Beach Harbor Department ("Chief Executive"), by and between the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners ("City"), pursuant to authority granted by said Board [by its Ordinance No. HD-2159] [at its meeting of _____, 20__; and _____], a _____ corporation ("Consultant").

1. This contract is made with reference to the following facts and objectives:

1.1 City[, from time to time,] has the need for _____
_____].

1.2 Consultant represents that it has in its employ [licensed and] experienced personnel who are qualified to render these services.

1.3 City wishes to employ Consultant upon the following terms and conditions to render such services as City shall [from time to time] request.

2. Consultant shall provide, in accordance with generally accepted professional and technical standards currently in effect, such services [within the scope of work] as may be requested in writing [from time to time during the term of this contract] by City's Director of [Environmental Planning/Master Planning/Transportation Planning] (the "Director"). [The anticipated scope of work is set forth in the _____ dated _____, attached hereto as Exhibit A and incorporated by this reference.]

3. The term of this contract shall [be deemed to have] commence[d] on [] and, subject to the provisions of paragraph [], shall terminate on [].

4. In requesting the services of Consultant, the Director shall identify the project for which such services are requested and shall establish the maximum amount to be charged by Consultant on such project, the time limit within which Consultant is to complete the work, and the charge point to be used by Consultant in billing City. Consultant's charges on any project shall not exceed the maximum amount so established without the express written approval of the Director.

5. Charges made by Consultant for such services shall be based on Consultant's [], attached hereto as Exhibit [] and incorporated by this reference.

6. Consultant shall submit a separate statement not later than the tenth day of each month for [each project upon which] services [which] have been performed during the immediately preceding month, referring in each of said statements to the charge point for such project previously furnished by the Director and detailing the services performed and expenses, if any, incurred. All payments to Consultant shall be made by City in due course, not to exceed thirty (30) days, after approval of invoice by the Director.

7. [Subject to the provisions of subparagraph 7.1,] T[t]he total amount which shall be payable by City to Consultant for Consultant's services[on all projects] during the term of this contract shall not exceed \$_____.

[7.1 If, during the course of the described services, additional work beyond the scope of services described in Exhibit A is, in the opinion of the Director, required or desired, the Director may authorize such additional work by Consultant; provided that the Director first receives written confirmation from the Harbor Department Risk Manager that no insurance is necessary for the additional work other than the insurance required by paragraph _____ of this contract, and

provided further, total compensation to be paid hereunder, including compensation for such additional services, shall not exceed \$_____.

8. All designs, sketches, drawings, specifications, data and other information, in whatever form or medium, compiled or prepared by Consultant in performing its services or furnished to Consultant by City shall be the property of City and City shall have the unrestricted right to use or disseminate same without payment of further compensation to Consultant. Copies of Consultant's work product may be retained by Consultant for its own records.

9. City shall have the right to terminate this contract at any time upon ten (10) days' written notice to Consultant. If this contract is so terminated prior to the expiration of the term, Consultant shall be paid for those charges which have accrued but not been paid through the effective date of termination. Consultant agrees to accept such amount, plus all amounts previously paid, as full payment and satisfaction of all obligations of City to Consultant.

10. Neither City nor any of its employees shall have any control over the conduct of Consultant, or employees of Consultant, except as herein set forth, and Consultant and employees of Consultant shall not, at any time or in any manner, represent that Consultant or employees of Consultant, or any of them, are the officers, agents, or employees of City. It is expressly understood and agreed that Consultant is, and shall at all times remain, as to City a wholly independent contractor, and each party's obligations to the other party are solely such as are set forth in this contract. Consultant shall be free to contract for similar services to be performed for others during this contract. [Consultant acknowledges and agrees that: (i) City will not withhold taxes of any kind from Consultant's compensation; (ii) City will not secure workers' compensation or pay unemployment insurance to, for or on Consultant's behalf; and (iii) City will not provide and Consultant is not entitled to any of the usual and customary rights, benefits or privileges of City employees.]

11. Consultant agrees, subject to applicable laws, rules, and regulations,

not to discriminate in the performance of this contract against any employee or applicant for employment on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, AIDS, HIV status, age, disability, handicap, or veteran status. Consultant shall ensure that applicants are employed and that employees are treated during employment without regard to any of these bases, including but not limited to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by City setting out the provisions of this nondiscrimination clause. Consultant shall in all solicitations or advertisements for employees state that all qualified applicants will receive consideration for employment without regard to these bases. Compliance with the Americans with Disabilities Act of 1990 shall be the sole responsibility of Consultant, and Consultant shall defend and hold the City harmless from any expense or liability arising from Consultant's non-compliance therewith.

12. Any notices to be given under this contract shall be given in writing. Such notices may be served by personal delivery, facsimile transmission or by first class regular mail, postage prepaid. Any such notice, when served by mail, shall be effective two (2) calendar days after the date of mailing of the same, and when served by facsimile transmission or personal delivery shall be effective upon receipt. For the purposes hereof, the address of City, and the proper person to receive any such notices on its behalf, is: Chief Executive, Long Beach Harbor Department, P.O. Box 570, Long Beach, California 90801; and the address of Consultant as indicated above.

13. This contract contemplates the personal services of Consultant and its employees, and it is recognized by the parties hereto that a substantial inducement to City for entering into this contract was, and is, the professional reputation and competence of Consultant and key employees [_____] (Project Principal) and _____ (Project Manager)] and any change in personnel employed on

City projects shall be approved in advance by the Director. Neither this contract nor any interest therein may be assigned or delegated by Consultant except upon the prior written consent of the Chief Executive. Any attempted assignment or delegation without such consent shall be void, and any assignee or delegate shall acquire no right or interest by reason of such attempted assignment or delegation. Nothing herein shall prevent Consultant from employing or hiring as many employees as Consultant may deem necessary for the proper and efficient execution of this contract.

14. Consultant covenants that both itself, in its corporate capacity, and its principals presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract.

15. (a) Consultant shall indemnify, protect and hold harmless City, the Board of Harbor Commissioners, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Consultant's breach or failure to comply with any of its obligations contained in this contract, or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Consultant, its officers, employees, agents, subcontractors, or anyone under Consultant's control, in the performance of work or services under this contract (collectively "Claims" or individually "Claim").

(b) In addition to Consultant's duty to indemnify, Consultant shall have a separate and wholly independent duty to defend Indemnified Parties at Consultant's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault,

breach, or the like on the part of Consultant shall be required for the duty to defend to arise. City shall notify Consultant of any Claim, shall tender the defense of the Claim to Consultant, and shall assist Consultant, as may be reasonably requested, in the defense.

(c) If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.

[(d) To the extent this contract is a professional service contract for work or services performed by a design professional, such as an architect, landscape architect, professional engineer or professional land surveyor, subject to California Civil Code Section 2782.8, the provisions of this Section regarding Consultant's duty to defend and indemnify shall be limited to apply only to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.] [INCLUDE ONLY IN CONTRACTS INVOLVING DESIGN SERVICES]

(e) The provisions of this paragraph shall survive the expiration or termination of this contract.

16. As a condition precedent to the effectiveness of this contract, Consultant shall comply with the insurance requirements attached hereto as Exhibit B.

17. Consultant shall obtain and maintain any necessary licenses and permits required under Title 3 and Title 5 of the Long Beach Municipal Code. City may withhold any payment to Consultant until Consultant comes into compliance with such licensing and permitting requirements.

[18. This contract shall be deemed made in the State of California and shall be governed by the laws of said State (except those provisions of California law dealing with conflicts of law), both as to interpretation and performance.]

19. In the event of any conflict or ambiguity between this written agreement and any exhibit hereto, the provisions of this agreement shall govern.

20. This contract shall not be amended, nor any provision or breach hereof waived, except in writing signed by the parties which expressly refers to this contract.

21. This contract, including all exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.

[_____]

_____, 20__

By: _____
Name: _____
Title: _____

_____, 20__

By: _____
Name: _____
Title: _____

CONSULTANT

CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

_____, 20__

By: _____
Jon W. Slangerup
Chief Executive
Long Beach Harbor Department

CITY

The foregoing document is hereby approved as to form.

CHARLES PARKIN, City Attorney

_____, 20__

By: _____
Principal Deputy/Deputy

Master Agr. - Alternate 1 - Paragraph 2.

2. Consultant shall provide, in accordance with generally accepted professional and technical standards currently in effect, such environmental documentation services as may be requested in writing from time to time during the term of this contract by City's Director. All services shall be provided in a manner consistent with City's Request for Qualifications to Provide Environmental Documentation Services dated [] ("Request") and Consultant's Statement of Qualifications dated [] ("Statement"). The Request and Statement are on file with City's Director and incorporated herein by this reference.