



# SUCCESSOR AGENCY TO THE INDUSTRY URBAN-DEVELOPMENT AGENCY

SPECIAL MEETING AGENDA  
SEPTEMBER 14, 2017 8:30 A.M.

Location: City Council Chamber, 15651 East Stafford Street, City of Industry, California

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## **Addressing the Agency:**

- ▶ **Agenda Items:** Members of the public may address the Successor Agency on any matter listed on the Agenda. In order to conduct a timely meeting, there will be a three-minute time limit per person for any matter listed on the Agenda. Anyone wishing to speak to the Successor Agency is asked to complete a Speaker's Card which can be found at the back of the room and at each podium. The completed card should be submitted to the Secretary prior to the Agenda item being called and prior to the individual being heard by the Successor Agency.
- ▶ **Public Comments (Agenda Items Only):** During oral communications, if you wish to address the Agency Board during this Special Meeting, under Government Code Section 54954.3(a), you may only address the Agency Board concerning any item that has been described in the notice for the Special Meeting.

## **Americans with Disabilities Act:**

- ▶ In compliance with the ADA, if you need special assistance to participate in any meeting (including assisted listening devices), please contact the Office of the Secretary to the Successor Agency (626) 333-2211. Notification of at least 72 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting.

## **Agendas and other writings:**

- ▶ In compliance with Government Code Section 54957.5(b), staff reports and other public records permissible for disclosure related to open session agenda items are available at City Hall, 15625 East Stafford Street, Suite 100, City of Industry, California, at the office of the Secretary of the Successor Agency during regular business hours, Monday through Friday, 9:00 a.m. to 5:00 p.m.

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1. Call to Order
  2. Flag Salute
  3. Roll Call
  4. Public Comment
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5. **BOARD MATTERS**

- 5.1 Consideration of Amendment No. 1 to the Professional Services Agreement between the Successor Agency to the Industry Urban-Development Agency, and C & C Engineering, Inc., for Engineering Staff Support Services

*RECOMMENDED ACTION: Approve the Amendment.*

6. Adjournment. Next regular Successor Agency meeting will be on Thursday, September 28, 2017, at 8:30 a.m.

*SUCCESSOR AGENCY*


ITEM NO. 5.1



*SUCCESSOR AGENCY TO THE*  
**INDUSTRY URBAN - DEVELOPMENT AGENCY**

**MEMORANDUM**

**TO:** Honorable Chairman Radecki and Board Members of the Successor Agency to the Industry Urban-Development

**FROM:** Paul J. Philips, Executive Director 

**DATE:** September 14, 2017

**SUBJECT:** Consideration of Amendment No. 1, extending the Professional Services Agreement with C & C Engineering, Inc. for Engineering Staff Support Services, from September 22, 2017 to September 22, 2018

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Background:

On September 22, 2016, the Successor Agency to the Industry Urban-Development Agency ("Agency") approved an Agreement between the Agency and C & C Engineering, Inc. ("C & C") for engineering staff support, daily operations and activities, program management, and project management. The staff at C & C continues to function as an Agency engineering department. The agreement included two (2) one (1) year extension options. In order for C & C to continue its services and efforts, the Agreement should be extended for an additional 12 months, extending it to September 22, 2018. In addition, the amendment includes a revised fee schedule.

Fiscal Impact:

The fiscal year 2016-2017 adopted budget included sufficient funding for engineering staff support services under General Fund – General Engineering – Streets & Roads (account no. 100-623-5900) and Civic Financial Center – General Engineering (account no. 100-625-5900) as well as various line items in the Recognized Obligation Payment Schedule (ROPS).

Recommendation:

Staff will continue to work with C & C to provide services as needed. At this time, Staff recommends that the Executive Director be authorized to amend the Professional Services Agreement with C & C Engineering, Inc.

Exhibits:

- A. Amendment No. 1 to Professional Services Agreement with C & C Engineering, Inc. dated September 14, 2017.
- B. Fee Schedule

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PJP/:af

**AMENDMENT NO. 1  
TO PROFESSIONAL SERVICES AGREEMENT WITH C & C ENGINEERING, INC.**

This Amendment No. 1 to the Professional Services Agreement (“Agreement”), is made and entered into this 14<sup>th</sup> day of September 2017 (“Effective Date”), by and between the Successor Agency to the Industry Urban-Development Agency, a public body, corporate and politic (“Agency”), and C & C Engineering, Inc., (“Consultant”).

**RECITALS**

**WHEREAS**, on or about September 22, 2016, the Agreement was entered into and executed between the City of Industry, the Agency and the Consultant, to perform civil engineering services and related services in the City of Industry, California; and

**WHEREAS**, the term of the Agreement is set to expire on September 22, 2017; and

**WHEREAS**, pursuant to Section 1 of the Agreement, the Agreement may be extended for two, one-year terms. The Agency and Consultant, only, desire to extend the term of the Agreement for an additional year; and

**WHEREAS**, at the request of the Agency, Consultant has established a revised fee schedule to add an additional Municipal Engineering Services position; and

**WHEREAS**, for the reasons set forth herein, the Agency and Consultant desire to enter into this Amendment No. 1, as set forth below.

**AMENDMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

**SECTION 1. TERM**

The first sentence of Section 1 is hereby amended to read in its entirety as follows:

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until September 22, 2018, unless sooner terminated pursuant to the provisions of this Agreement.

**EXHIBIT B: Rate Schedule**

Exhibit B shall be amended to include Consultant’s updated rate schedule attached hereto as Exhibit B, and incorporated herein by reference.

IN WITNESS WHEREOF, the Agency and Consultant have executed this Amendment No. 1 to the Agreement as of the Effective Date.

**“CONSULTANT”  
C & C ENGINEERING, INC.**

By: \_\_\_\_\_  
Clement N. Calvillo, President

By: \_\_\_\_\_  
Mary R. Calvillo, Secretary

**“AGENCY”  
SUCCESSOR AGENCY TO THE INDUSTRY  
URBAN-DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Paul J. Philips, Executive Director

**Attest:**

By: \_\_\_\_\_  
Diane Schlichting, Assistant Secretary

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
James M. Casso, Agency General Counsel

Attachment: Exhibit B – Fee Schedule

**EXHIBIT A TO AMENDMENT NO. 1:**

**AGREEMENT FOR CONSULTING SERVICES WITH C & C ENGINEERING, INC.  
(DATED SEPTEMBER 22, 2016)**

## CITY OF INDUSTRY

### PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is made and effective as of September 22, 2016 ("Effective Date"), between the City of Industry, a municipal corporation ("City"), the Successor Agency to the Industry Urban-Development Agency, a public body, corporate and politic ("Agency"), and C & C Engineering, Inc., a California corporation ("Consultant"). The City, Agency and Consultant are hereinafter collectively referred to as the "Parties".

#### RECITALS

WHEREAS, City and Agency desire to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City, Agency and Consultant agree as follows:

#### 1. TERM

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until September 22, 2017, unless sooner terminated pursuant to the provisions of this Agreement. Notwithstanding the foregoing, the City, and Agency, at their sole and exclusive option, may grant two one (1) year extensions to this Agreement.

#### 2. SERVICES

(a) Consultant shall perform the tasks ("Services") described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. ("Scope of Services"). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City/Agency. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City/Agency. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City/Agency shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City/Agency and in a first-class manner in conformance with the standards of quality normally observed by an entity providing engineering services, serving a municipal agency.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not



limited to, the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*). No officer or employee of City/Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City/Agency. If Consultant was an employee, agent, appointee, or official of the City/Agency in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City/Agency for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

### **3. MANAGEMENT**

City's City Manager/Agency Executive Director shall represent the City/Agency in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

### **4. PAYMENT**

(a) The City/Agency agree to pay Consultant bi-monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks.

(b) 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/Agency. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City/Agency and Consultant at the time City's/Agency's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices bi-monthly for actual services performed. Invoices shall be submitted on or about the first and fifteenth business days of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City/Agency disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

Any final payment under this Agreement shall be made within 45 days of receipt of an invoice therefore.

**5. LABOR CODE AND PREVAILING WAGES**

(a) Consultant represents and warrants that it is aware of the requirements of California Labor Code Section 1720, *et seq.*, and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 16000, *et seq.*, ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$15,000.00 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City/Agency shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and any location where the Services are performed. Consultant shall indemnify, defend and hold harmless, the City and Agency, and their elected officials, officers, employees and agents, from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, Consultant's or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant, failure or alleged failure to comply with Prevailing Wage Laws.

(b) In accordance with the requirements of Labor Code Section 1776, Consultant shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information required by such forms. Consultant shall make all such records available for inspection at all reasonable hours.

(c) To the extent applicable, Consultant shall comply with the provisions of Section 1777.5 of the Labor Code with respect to the employment of properly registered apprentices upon public works.

(d) Consultant shall comply with the legal days work and overtime requirements of Sections 1813 and 1815 of the Labor Code.

(e) If the Services are being performed as part of an applicable Public works or Maintenance project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Agreement and require the same of any subconsultants, as applicable. This Services set forth in this Agreement may also be subject to compliance monitoring and enforcement by

the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

## **6. SUSPENSION OR TERMINATION OF AGREEMENT**

(a) The City/Agency may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least thirty (30) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City/Agency suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City/Agency shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City/Agency. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City/Agency pursuant to Section 5 of this Agreement.

(c) In the event this Agreement is terminated pursuant to this section, the Consultant shall provide the City/Agency with all sketches, pencil tracings of working drawings, plans, computations in reproducible form, specifications and all contract documents shall be the property of the City/Agency without restriction or limitation upon use, duplication or dissemination. With the written permission of the City/Agency, Consultant shall be entitled to retain copies of such documents as is may require. It is contemplated that during the Term of this Agreement, all of aforementioned original plans, sketches, drawings, contracts and the like shall be maintained in the possession of the City/Agency, but the Consultant may retains copies of all such documents. The City/Agency may require Consultant to surrender possession thereof of all existing original documents and work product in Consultant possession upon thirty (30) day notice.

(d) Consultant agrees that approval of this Agreement shall automatically cause the termination of any underlying agreements for engineering services between the City/Agency and Consultant, including, but not limited to, the agreement with the City dated June 23, 2011, and any subsequent amendments thereto. Consultant further waives and releases the City/Agency, their officials, employees and agents from any and all claims for damages pertaining to the termination of any prior agreements for engineering services between the City/Agency and Consultant.

## **7. OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City/Agency that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City/Agency or its designees at reasonable times to review such books and records; shall give City/Agency the right to examine and audit said books and

records; shall permit City/Agency to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City/Agency and may be used, reused, or otherwise disposed of by the City/Agency without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City/Agency, at the Consultant's office, and upon reasonable written request by the City/Agency, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City/Agency all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City/Agency.

#### 8. INDEMNIFICATION

##### (a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and Agency and any and all of their officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs that arise out of, pertain to, or relate to any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

##### (b) Indemnity for other than professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City and Agency, and any and all of their employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) DUTY TO DEFEND. In the event the City and/or Agency, their officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City and/or Agency, Consultant shall have an immediate duty to defend the City and Agency at Consultant's cost or at City's and/or Agency's option, to reimburse the City and/or Agency for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City/Agency is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant, City, and Agency as to whether liability arises from the sole negligence of the City and/or Agency or its officers, employees, or agents, Consultant will be obligated to pay for City's and/or Agency's defense until such time as a final judgment has been entered. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant may submit a claim to the City and/or Agency for reimbursement of reasonable attorneys' fees and defense costs in proportion to the established comparative liability of the indemnified party.

#### 9. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

#### 10. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the City/Agency a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City/Agency nor any of their officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City/Agency. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City/Agency, or bind the City/Agency in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City/Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City/Agency. City/Agency shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

#### 11. LEGAL RESPONSIBILITIES

The 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

service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City/Agency, and their officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

**12. UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City/Agency in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City/Agency has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City/Agency to any and all remedies at law or in equity.

**13. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES**

No member, officer, or employee of City/Agency, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Services during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

**14. RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's/Agency's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City/Agency, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City/Agency, unless otherwise required by law or court order.

(b) Consultant shall promptly notify City/Agency should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City/Agency of such Discovery, court order or subpoena. City/Agency retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City/Agency is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City/Agency and to provide the opportunity to review any response to discovery requests provided by Consultant. However,

City's/Agency's right to review any such response does not imply or mean the right by City/Agency to control, direct, or rewrite said response.

#### 15. NOTICES

Any notices which any party may desire to give to any other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City/Agency:	City of Industry 15625 E. Stafford, Suite 100 City of Industry, CA 91744  Attention: City Manager/Executive Director
With a Copy To:	James M. Casso, City Attorney/Agency General Counsel Casso & Sparks, LLP 13200 Crossroads Parkway North, Suite 345 City of Industry, CA 91746
To Consultant:	Clement N. Calvillo, President C & C Engineering, Inc. 255 North Hacienda Boulevard, Suite 222 City of Industry, CA 91744

#### 16. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City/Agency.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City/Agency with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City/Agency as indemnified parties, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City/Agency for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City/Agency for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City/Agency and any

subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

**17. GOVERNING LAW/ATTORNEYS' FEES**

The City, Agency and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the Parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

**18. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each Party is entering into this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material.

**19. SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**20. COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**21. CAPTIONS**



The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

**22. WAIVER**

The waiver by City, Agency or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City, Agency or Consultant unless in writing.

**23. REMEDIES**

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

**24. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

**(SIGNATURES ON FOLLOWING PAGE)**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

**"CITY"**  
City of Industry

By: Paul J. Philips  
Paul Philips, City Manager

**"CONSULTANT"**  
C & C Engineering, Inc.

By: [Signature]  
Clement N. Calvillo, President

By: Mary R. Calvillo  
Mary R. Calvillo, Secretary

Attest:

By: Diane Schlichting  
Diane Schlichting, Chief Deputy City Clerk

Approved as to form:

By: James M. Casso  
James M. Casso, City Attorney

**"AGENCY"**  
Successor Agency to the Industry Urban-Development Agency

By: Paul Philips  
Paul Philips, Executive Director

Attest:

By: Diane Schlichting  
Diane Schlichting, Assistant Secretary

Approved as to form:

By: James M. Casso  
James M. Casso, Agency General Counsel

Attachments:      Exhibit A      Scope of Services  
                         Exhibit B      Rate Schedule  
                         Exhibit C      Insurance Requirements

## EXHIBIT A

### SCOPE OF SERVICES

Consultant shall:

#### **1. General Engineering and Project Management**

- A. Serve as City Engineer; designated City Engineer/Agency Engineer and Deputy City Engineer/Agency Engineer must be a registered civil engineer in the State of California;
- B. Manage and provide all aspects of civil engineering, traffic engineering, front counter permit services, plan checking, development conditioning, capital project management, construction inspection, and assistance in obtaining federal, state and other funding for transportation and other infrastructure projects;
- C. Review all matters pertaining to engineering to ensure that initiatives proposed and implemented by the City/Agency and others are done in a manner that protects the City's/Agency's interests, and are consistent with local, state and federal laws;
- D. Assist in planning, coordinating, supervising and evaluating infrastructure, programs, plans, and services;
- E. Evaluate the City's/Agency's needs and formulate short- and long-term plans to meet needs in all areas of public works improvements, including streets, sewers, storm drains, water distribution system, street lights, traffic signals, bridges, median islands, municipal facilities and all other improvements within the public right-of-way;
- F. Provide engineering, design services, land surveying and manage construction of public works projects, including construction inspection and construction staking;
- G. Be available to public and private developers to handle matters dealing with the engineering functions of city government;
- H. Maintain, at City Hall, municipal engineering records and maps required to ensure accurate information is available to the public and City/Agency staff;
- I. Prepare reports, investigations, studies and evaluations as may be required by the Director of Development Services and Administration or his designee;
- J. Advise the City/Agency as to engineering and construction funding available from other government agencies, and when so directed, prepare and initiate applications for funding;
- K. Serve as Resident Engineer when required pursuant to Caltrans/federal requirements;
- L. Design of capital improvement projects, improvement plans, specifications, bid documents, and public improvement project management and inspection;

- M. Solicit proposals for capital improvement project design work, construction management, and inspection, as needed;
- N. Review and evaluate bid submittals;
- O. Provide construction observation, management, inspection, and staking during the construction of City/Agency projects; act as Resident Engineer; assist with cost estimating, approval of payments, and change orders, filing of notices, and other tasks;
- P. Coordinate activities with other departments and outside agencies to obtain various approvals and agreements such as environmental clearances, permits, land acquisition, and rights-of-way for engineering projects;
- Q. Negotiate land acquisitions, dispositions, easements, agreements, leases, and other associated property rights as it relates to engineering projects;
- R. Assist with the development and implementation of a multi-year Capital Improvement Program for the City;
- S. Attend City Council, Successor Agency to the Industry Urban-Development Agency, Oversight Board of the Successor Agency to the Industry-Urban Development Agency and other meetings as requested;
- T. Provide such other related engineering services as requested by the City Manager/Executive Director or his designee;
- U. Provide peer review for City/Agency contractors and accept peer review from City/Agency Contractors, as directed;
- V. Conform to systems of procurement, administrative and financial controls, as directed;
- W. Provide NPDES services that are necessary and related functions as are the normal practice of City Engineering Departments; and
- X. Maintain the City's/Agency's digital and plotted atlases of all infrastructure.

## 2. Development Review

- A. Review proposed improvements and land developments and provide recommendation as to engineering matters to ensure conformance with City ordinances and state law;
- B. Perform statutory functions of City/Agency Engineer pertaining to the review and checking of lot line adjustments, parcel and tract maps, including tentative, final and vesting maps. Ensure map conformance with State Subdivision Map Act and City ordinances;
- C. Provide a "turn around" checking time for maps and improvement plans not to exceed ten calendar days for the first plan check once the application has been deemed complete and all subsequent plan checks necessary until plan is approved. The Engineer shall notify the applicant in writing of any final plan or final map deficiencies within the timeframe required by State law, and in no event more than 30 days after receipt, specifying those items needed to complete the application;

- D. Establish performance, labor and material bond amounts when required and ensure the posting of such bonds within the proper time sequence of such development control;
- E. Provide necessary and related functions as are the normal practice of City/Agency Engineering in control of private development; and
- F. Provide front counter in-take and public information services.

### 3. Traffic Engineering

- A. Provide support and expertise in the application of Traffic Engineering principles and practices to provide and enhance the safety and efficient movement of pedestrians, cyclists and vehicular traffic of people and goods within the City;
- B. Ensure compliance with requirements of Section 627 of the California Vehicle Code and all other applicable federal, state, and local laws;
- C. Provide comprehensive analyses of existing and projected traffic conditions; intersection design, rail line or at-grade crossing impacts, speed humps, City parking lot design, and traffic/transportation data collection services;
- D. Provide electronic traffic control device studies and designs (signs, signals, pavement markings, school zone flashers and curve warning flashers);
- E. Review subdivision or new development projects involving traffic impact analyses, transportation modeling, area-wide transportation studies and road impact fee analyses;
- F. Investigate citizen requests for traffic calming measures and respond to citizens, as directed by the City Manager/Executive Director;
- G. Provide technical assistance for traffic signal design and day-to-day traffic operations including traffic signals;
- H. Provide technical input to City/Agency staff with signing and striping changes, issuing workorders to address citizen requests, signal equipment upgrades and parts, collision analysis, speed limits, traffic volume data and other work performed by City/Agency staff;
- I. Review traffic plans for capital improvement projects and advise City/Agency on potential issues;
- J. Assist City with preparation of Annual Traffic Safety Report;
- K. Review development plans, including environmental impact reports and impact studies for potential traffic issues and advise on possible solutions;
- L. Review precise grading and public improvement plans for potential traffic issues and advise on possible solutions;
- M. Review traffic control plans for construction projects and advise on potential issues; and
- N. Maintain traffic collision database and advise on traffic issues involved.

### 4. Construction Inspection

- A. Coordinate and attend pre-construction meetings;
- B. Review shop drawing and submittals from contractor;
- C. Provide field inspections of work in progress to ensure compliance with plans and specifications;
- D. Follow federal requirements and procedures and filing system for federally funded projects;
- E. Take digital photos of each construction phase throughout duration of project;
- F. Serve as inspector of record (create redline on as-built drawings) for work inspected;
- G. Prepare and distribute written daily inspection reports via e-mail and hard copy;
- H. Coordinate inspections with utility companies as necessary;
- I. Coordinate special testing and inspection work as required;
- J. Report instances of apparent non-compliance with contract plans, specifications to Director of Development Services and Administration or his designee for resolution;
- K. Verify prevailing wages and payroll information; and
- L. Verify progress payments.

#### 5. Testing

Consultant shall oversee the testing and review construction method and material compliance testing reports. Testing will include, but not be limited to: A. Soil compacting testing;

- B. Asphalt concrete testing; and
- C. Concrete slump and strength testing.

#### 6. Federally Funded Projects

- A. Secure all necessary permits, including CEQA and NEPA compliance, surveying, testing, preparation of plans and specifications, description of construction phasing plan, estimate of probable construction costs, preparation of bid documents, review of construction contract bids, recommendation for award, construction inspection, and construction administration;
- B. Provide all services in accordance with Caltrans standards, FHWA standards, and City/Agency standards;
- C. Comply with California Government Code Section 8355 in matters relating to the provision of a drug-free workplace;
- D. Comply with the Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et. Seq., that govern allowable elements of cost;
- E. Comply with the administrative requirements set forth in 49 CFR Part 18, Uniform

Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments; and

- F. Comply with CFR Title 49, Part 29, Debarment and Suspension of Certificate, refer to Exhibit 12-E "Debarment and Suspension Certificate" in Chapter 12 of the Caltrans Local Assistance Manual.

**7. Provision of Services**

- A. Place the highest emphasis on customer service;
- B. Be reachable and available to respond to City/Agency emergencies at all times. Consultant must provide City/Agency with emergency contact numbers for key personnel to facilitate the immediate response by Consultant to emergencies and provide an updated contact list every six months;
- C. Communicate effectively with citizens before, during, and after construction projects;
- D. Consultant shall provide written comments for initial and subsequent review no later than ten (10) calendar days from date of receipt of the plans. Consultant shall provide comments for expedited plan reviews within three (3) working days of receipt of the plans;
- E. Consultant will meet every two weeks with the Director of Development Services and Administration or his designee and other designated staff to provide comprehensive updates on all pending assignments; and
- F. Consultant will make initial contact in response to staff and developer inquiries and citizen concerns within 24 hours of receipt by City and update reporting party and Director of Development Services and Administration or his designee regularly throughout investigation and resolution period.



EXHIBIT B

RATE SCHEDULE

<b>Civil Engineering Services</b>		<b>Municipal Engineering Services</b>	
Principal	\$223.60	City Engineer/Agency Engineer	\$223.60
Associate Principal Engineer	\$172.47	Deputy City/Agency Engineer	\$172.47
Sr. Project Manager	\$166.29	Plan Checker	\$134.27
Project Manager	\$166.29	Sr. Construction Inspector	\$166.29
Project Engineer	\$134.27	Construction Inspector	\$134.27
Design Engineer	\$127.53	Administrative Assistant	\$83.15
Draftsperson	\$127.53		
Permit Coordinator	\$127.53		
Administrative Supervisor	\$95.40		
Administrative Assistant	\$83.15		
Office Work	\$70.23		
Field Work	\$70.23		
Student Interns	\$70.23		
<b>Field Survey and Inspection Services</b>			
Director of Survey	\$166.29		
Project Survey Manager	\$134.27		
Project Surveyor	\$134.27		
One Person Crew	\$157.30		
Two Person Crew	\$249.44		
Three Person Crew	\$325.84		
Sr. Construction Inspector	\$166.29		
Field Operations Assistant	\$134.27		

## EXHIBIT C

### INSURANCE REQUIREMENTS

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

**General liability insurance.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$2,000,000.00 per occurrence, \$5,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**Automobile liability insurance.** Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

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

**Workers' compensation insurance.** Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City/Agency, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City and Agency, their officers, agents, employees and volunteers.

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

**Duration of coverage.** Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may

arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.

**Primary/noncontributing.** Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City and/or Agency shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City and Agency before the City's and/or Agency's own insurance or self-insurance shall be called upon to protect it as a named insured.

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

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

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

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

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

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

**Additional insured status.** General liability policies shall provide or be endorsed to provide that City and Agency and their officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

**Prohibition of undisclosed coverage limitations.** None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City/Agency and approved of in writing.

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

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

**City's right to revise specifications.** The City and Agency reserve the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City, Agency and Consultant may renegotiate Consultant's compensation.

**Self-insured retentions.** Any self-insured retentions must be declared to and approved by the City/Agency. The City/Agency reserve the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City/Agency.

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

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



**EXHIBIT B**

Fee Schedule from C & C Engineering, Inc.

[Attached]

## CNC Engineering

Standard Fee Schedule

*For Professional Services*

EXHIBIT B

### Civil Engineering Services

Principal	\$223.60
Associate Principal Engineer	\$172.47
Sr. Project Manager	\$166.29
Project Manager	\$166.29
Project Engineer	\$134.27
Design Engineer	\$127.53
Draftsperson	\$127.53
Permit Coordinator	\$127.53
Administrative Supervisor	\$95.40
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Project Survey Manager	\$134.27
Project Surveyor	\$134.27
One Person Crew	\$157.30
Two Person Crew	\$249.44
Three Person Crew	\$325.84
Sr. Construction Inspector	\$166.29
Field Operations Assistant	\$134.27

### Municipal Engineering Services

City Engineer/Agency Engineer	\$223.60
Deputy City/Agency Engineer	\$172.47
Plan Checker	\$134.27
Sr. Construction Inspector	\$166.29
Construction Inspector	\$134.27
Contract Administrator	\$115.00
Administrative Assistant	\$83.15