

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To: Matthew J. Fertal  
Dept: City Manager  
Subject: AWARD AGREEMENT FOR AS-NEEDED ENGINEERING SERVICES FOR LAND DEVELOPMENT REVIEW AND INSPECTION

From: Keith G. Jones  
Dept: Public Works  
Date: August 10, 2010

OBJECTIVE

To request City Council authorization to award a professional services agreement to provide on-call services for land development review and inspection.

BACKGROUND

Recent budget reductions have allowed for the early retirement of the City's Land Development Inspector and Land Development Engineer in the Engineering Division of the Public Works Department. Once the retirements occur this will leave one person in the Land Development Section, the Permit Technician. While the current workload of the Land Development Section is low there is still a need for qualified personnel to handle the workload. Staff has determined that the most cost effective means of handling the current staffing issue is to hire a consultant on an as-needed basis to handle more significant Land Development duties. The City Engineer and Permit Technician will perform the day-to-day Land Development functions.

DISCUSSION

Staff began an informal analysis and determined that our current Land Development workload is about 20% of our peak a few years ago, conservatively speaking. Staff believes that if the day to day tasks were absorbed by existing staff, and the major tasks are completed by a consultant that it would be possible to achieve a General Fund savings with only a minor reduction in service level, if any. To achieve this staff, raised fees for Land Development inspection so that the City's fee would match the rate charged by the private sector for an inspector. Staff issued a Request For Proposal (RFP) from qualified firms to provide Land Development and Inspection Services as required. Should Land Development activity pick up, it may be necessary to add City Staff to provide adequate service at competitive rates.

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RFP's were sent out to Wildan Engineering, Engineering Resources, Vali Cooper and Associates, and Wilson Murphy Engineering. Each of the consultants responded with a proposal. The consultant's proposals were rated using a qualifications-based selection process as required by state law. The Engineering Division of the Publics Works Department insures that the qualifications are accurately and consistently rated by using a "Proposal Evaluation Form" that was developed using "Qualifications-Based Selection - A Guide for the Selection of Professional Consultant Services for Public Owners" published by the Architects and Engineers Conference Committee of the California Society of Professional Engineers dated October of 1993 (this is the latest edition). A sample form is attached.

The proposals were evaluated and rated by three Engineering Division and one Building Division staff member(s) without consideration for cost and determined that Engineering Resources is highly rated and best qualified to provide the on-call engineering and inspection.

The following is a summary of the ratings; the **lowest** total is the most qualified:

	<b>Wildan</b>	<b>Engineering Resources</b>	<b>Vali-Cooper</b>	<b>Wilson-Murphy</b>
<i>Rater A</i>	1	<b>2</b>	3	4
<i>Rater B</i>	2	<b>1</b>	3	4
<i>Rater C</i>	3	<b>1</b>	2	4
<i>Rater D</i>	<u>3</u>	<u><b>1</b></u>	<u>2</u>	<u>4</u>
<b>Totals</b>	9	<b>5</b>	10	16

Upon selection of the most qualified firm Engineering staff interviewed Engineering Resources and negotiated an agreement for their services.

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FINANCIAL IMPACT

The contract will be financed with budgeted general funds.

RECOMMENDATION

It is recommended that the City Council:

- Award consultant agreement to Engineering Resources for Land Development Inspection and Plan Checking services.
- Authorize the City Manager to execute the consultant agreement with Engineering Resources in the amount of \$ 150,000.00.



KEITH G. JONES  
Public Works Director



By: William Murray  
City Engineer

Attachment: Consultant Agreement  
Proposal Evaluation Form

**Recommended for Approval**



**Matthew Ferial**  
City Manager

# CONSULTANT AGREEMENT

## ENGINEERING RESOURCES

THIS AGREEMENT is made this 10 day of August, by the CITY OF GARDEN GROVE, a municipal corporation, ("CITY"), and Engineering Resources, ("CONSULTANT").

## RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove Council authorization dated August 10, 2010.
2. CITY desires to utilize the services of CONSULTANT to provide geotechnical and materials testing services on an "as-needed basis as requested by City for various projects.
3. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish services.

## AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall cover services rendered from date of this agreement until terminated.
2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of the following: to provide LAND DEVELOPMENT REVIEW AND INSPECTION SERVICES on an "as-needed" basis as requested by City for various projects.
3. **Compensation.** CONSULTANT shall be compensated as follows:
  - 3.1 **Amount.** \$150,000.00
  - 3.2 **Not to Exceed.** Compensation under this Agreement shall not exceed \$150,000.00.
  - 3.3 **Payment.** For work under this Agreement, payment shall be made per monthly invoice. For extra work not a part of this Agreement, a written authorization by CITY will be required and payment shall be based on hourly rates as provided in Exhibit A.
  - 3.4 **Records of Expenses.** CONSULTANT shall keep complete and accurate records of payroll costs, travel and incidental expenses. These records will be made available at reasonable times to CITY.

3.5 Termination. CITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination. If the project is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

#### 4. Insurance Requirements

4.1 Commencement of Work CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.

4.2 Workers Compensation Insurance For the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.

4.3 Insurance Amounts CONSULTANT shall maintain the following insurance for the duration of this Agreement:

Insurance Amounts CONSULTANT shall maintain the following insurance for the duration of this Agreement:

- (a) Commercial general liability in the amount of \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be acceptable to City and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY;
- (b) Automobile liability in the amount of \$1,000,000 per combined single limit; Insurance companies must be acceptable to City and have a Best's Guide Rating of A-Class VII or better, as approved by the City;
- (c) Professional liability in the amount of \$1,000,000 per occurrence; Insurance companies must be acceptable to City and have a Best's Guide Rating of A-Class VII or better, as approved by the City;

**An On-going and Completed Operations Insured Additional Insured Endorsement for the policy under section 4.3 (a) shall designate CITY, its officers, official, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall**

provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, lease, hired, or borrowed by the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects to CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount, which may become due to CONSULTANT.
6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance With Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.
9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by CITY, unless disclosure is required by law.
10. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

12. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(a) Address of CONSULTANT is as follows:

Engineering Resources  
Robert Righetti  
3550 E. Florida Ave., Ste. B  
Hemet, CA 92544

(b) Address of CITY is as follows (with a copy to):

Engineering	Attorney
City of Garden Grove	City of Garden Grove
11222 Acacia Parkway	P.O. Box 3070
Garden Grove, CA 92840	Garden Grove, CA 92840

13. **CONSULTANT'S Proposal.** This Agreement shall include CONSULTANT'S proposal or bid which shall be incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
14. **Licenses, Permits and Fees.** At its sole expense, CONSULTANT shall obtain a **Garden Grove Business License**, all permits and licenses as may be required by this Agreement.
15. **Familiarity With Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.
16. **Time of Essence.** Time is of the essence in the performance of this Agreement.
17. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability and reputation of CONSULTANT, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONSULTANT is permitted to subcontract any

part of this Agreement, 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 relationship 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.

18. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
  
19. **Indemnification.** To the fullest extent permitted by law, CONSULTANT agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT in the performance of the Agreement. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless CITY, is due to the negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.  
  
This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.
  
20. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and CONSULTANT.
  
21. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and CONSULTANT.
  
22. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.
  
23. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties
  
24. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.



**(Signature block on next page)**

**IN WITNESS THEREOF**, these parties hereto have caused this Agreement to be executed as of the date set forth opposite the respective signatures.

**"CITY"  
CITY OF GARDEN GROVE**

Dated: \_\_\_\_\_, 2010

By: \_\_\_\_\_  
City Manager

**ATTEST**

**"CONSULTANT"  
Engineering Resources, Inc.**

\_\_\_\_\_  
City Clerk

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

Dated: \_\_\_\_\_, 2010

Dated: \_\_\_\_\_, 2010

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Garden Grove City Attorney

Dated: \_\_\_\_\_, 2010

If a Consultant is a corporation, a Corporate Resolution, and/or Corporate Seal is required.

# PROPOSAL EVALUATION FORM

Consultant \_\_\_\_\_ Date \_\_\_\_\_  
 (Construction Manager)

Project \_\_\_\_\_ Project# \_\_\_\_\_

CRITERION	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score	Notes and Questions for Interview
<b>INTRODUCTION</b> <i>(Proposal)</i> <ul style="list-style-type: none"> <li>○ Comprehension of the RFP</li> </ul>	2.0			
<b>QUALIFICATIONS</b> <i>(Proposal)</i> A. Experience of the firm and subcontractors on similar projects B. Qualifications & Experience of Personnel <ul style="list-style-type: none"> <li>○ Project Manager</li> <li>○ Other Personnel Assigned</li> </ul>	1.5   2.0 1.0			
<b>WORK PLAN</b> <i>(Proposal)</i> <ul style="list-style-type: none"> <li>○ Knowledge of project</li> <li>○ Knowledge of existing conditions &amp; how it may affect the project</li> <li>○ Initiative &amp; Creativity</li> <li>○ Hours req'd vs. coverage of work</li> <li>○ Availability of team members</li> <li>○ Quality Assurance &amp; Supervision</li> </ul>	2.0 2.0 1.5 1.5 1.0 2.0			
<b>SCHEDULE</b> <i>(Proposal)</i> <ul style="list-style-type: none"> <li>○ Timeliness to target dates in the Scope of Work</li> </ul>	1.0			
<b>REFERENCES</b> <ul style="list-style-type: none"> <li>○ The firm's past record of performance on similar projects</li> </ul>	2.0			
<b>A. TOTAL</b> <i>(Proposal)</i>				
<b>QUALIFICATIONS</b> <i>(Interview)</i> <ul style="list-style-type: none"> <li>○ Qualifications and experience of the Project Manager and Team Members</li> </ul>	2.5			
<b>WORK PLAN</b> <i>(Interview)</i> <ul style="list-style-type: none"> <li>○ Feasibility</li> <li>○ Availability of Team Members</li> <li>○ Quality Control &amp; Supervision</li> <li>○ Project Manager &amp; Expertise</li> <li>○ Initiative &amp; Creativity</li> <li>○ Quality of Graphic Designs</li> </ul>	1.0 1.5 2.0 1.5 1.0 1.0			
<b>B. GRAND TOTAL</b>				

Signature \_\_\_\_\_