

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew J. Fertal	From:	William E. Murray	
Dept:	City Manager	Dept:	Public Works	
Subject:	RECOMMENDATION TO AWARD CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES FOR FIRE FLOW WATER IMPROVEMENTS PROJECT NOS. FF011 AND FF084		Date:	February 14, 2012

**OBJECTIVE**

To recommend that City Council award a contract for professional engineering services of the Priority Fire Flow Water Improvements Project Nos. FF011 and FF084.

**BACKGROUND**

Priority Fire Flow Water Improvements Project Nos. FF011 and FF084 were approved and budgeted for this fiscal year as a part of the Water Master Plan. These projects will relieve fire flow capacity deficiencies in the areas along the alleyway that is west of Doig Intermediate School, on Lilly Street from Trask Avenue to School Drive, and other residential streets as shown in the attached location map. These projects will be designed and constructed by next FY 2012/13.

**DISCUSSION**

Staff requested and received proposals from five (5) firms to provide professional engineering services. Three staff members rated the submitted proposals on the basis of qualifications. Based on evaluation results, Carollo Engineers rated highest in qualifications and its ability to provide professional engineering services for this project. The following is a summary of the ratings with the highest total being the most qualified:

	<b>Carollo Engineers</b> Irvine, CA	<b>Psomas</b> Santa Ana, CA	<b>Harris &amp; Associates</b> Irvine, CA	<b>Mead &amp; Hunt</b> Rancho Cucamonga, CA	<b>Lee &amp; Ro</b> City of Industry, CA
<i>Rater A</i>	<i>159.5</i>	<i>159.0</i>	<i>156.5</i>	<i>149.5</i>	<i>150.0</i>
<i>Rater B</i>	<i>155.0</i>	<i>154.5</i>	<i>155.0</i>	<i>153.0</i>	<i>143.0</i>
<i>Rater C</i>	<i>158.5</i>	<i>158.0</i>	<i>145.5</i>	<i>132.5</i>	<i>139.5</i>
<b>Totals</b>	<b>473.0</b>	<b>471.5</b>	<b>457.0</b>	<b>435.0</b>	<b>432.5</b>

RECOMMENDATION TO AWARD CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES FOR FIRE FLOW WATER IMPROVEMENTS PROJECT NOS. FF011 and FF084

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Upon selection of the most qualified firm, Water Services staff interviewed Carollo Engineers, Inc. and negotiated an agreement for its services.

FINANCIAL IMPACT

The cost of this project is \$65,075 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 Carollo Engineers, Inc. for the Fire Flow Water Improvements Project Nos. FF011 and FF084.
- Authorize the City Manager to sign the professional service agreement with Carollo Engineers, Inc. for the professional engineering services of the Fire Flow Water Improvements Project Nos. FF011 and FF084 in the amount of \$65,075.



William E. Murray, P.E.  
Public Works Director/City Engineer



By: Rebecca Li, P.E.  
Associate Engineer

Attachment: 1) Location Map  
2) Professional Services Agreement

**Recommended for Approval**



**Matthew Fertal**  
City Manager



### ATTACHMENT 1 - LOCATION MAP

CHECKED BY: <b>S.K.</b>	PREPARED BY: <b>R.L.</b>	DRAWN BY: <b>R.L.</b>	SCALE: <b>N.T.S.</b>	PROJECT NO.	DATE: January, 2012
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City of Garden Grove  
Department of Public Works



CIP PROJECT NOS. FF011 AND FF084  
WATER IMPROVEMENTS PROJECT

## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into, to be effective the 14<sup>th</sup> day of February, 2012, by and between the CITY OF GARDEN GROVE, a municipal corporation, hereinafter referred to as "City," and Carollo Engineers, Inc., a Delaware 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 the construction of Fire Flow Water Improvements Project Nos. FF011 and FF084 (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 \$65,075.

### **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, procurement 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.

**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 City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City 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 City 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 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: Carollo Engineers, Inc.  
10540 Talbert Avenue, Suite 200 East  
Fountain Valley, CA 92708  
Attention: Jack Adam, 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

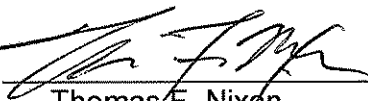
By: \_\_\_\_\_  
Matthew J. Fertal  
City Manager

ATTEST:

By: \_\_\_\_\_  
Kathy Bailor  
City Clerk

APPROVED AS TO FORM:

Woodruff, Spradlin & Smart

By:  \_\_\_\_\_  
Thomas F. Nixon  
City Attorney



Carollo Engineers, Inc.

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

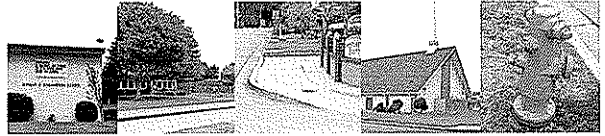
  
Gary Meyerhofer, P.E.  
Senior Vice President

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

  
Inge Wiersema, P.E.  
Associate Vice President

**EXHIBIT A**

**SCOPE OF SERVICES**



## SECTION 5

# Scope of Work

### Design Services

In this section, our detailed approach will be outlined for your project, specifically relating to how we will manage the schedule, budget, and communication with the City. Based on our understanding of your project, we have developed the best scope of services for the project, which requires a working knowledge of many complex issues. Our specific approach is illustrated in the detailed scope of services that follows.

### Scope of Services

In this section, our detailed scope of services is outlined for your project, specifically relating to how we will manage the project, communicate with the City, and approach the technical aspects of the project.

#### Task 1 - Project Management, Meetings, and Coordination

##### 1.1 - Project Schedule and Status Reports

Carollo will use in-house procedures outlined in our Project Management Manual, which details the companywide approach to project management. This project will be managed out of our Fountain Valley office, just ten minutes from the City's Yard. Upon receiving the Notice-to-Proceed (NTP), Carollo will submit an update of the detailed project schedule included in this proposal to the City. Carollo will also prepare monthly Project Status Reports, summarizing key project activities during the period, which will be submitted along with the monthly invoices.

##### 1.2 - Project Meetings

Carollo is committed to working closely and maintaining an open line of communication with City

staff throughout the duration of the project. Our most direct way to communicate with you and your staff will be through meetings. Meetings will take place at least once a month. Meetings are scheduled such that they can effectively be used to discuss deliverables and make decisions to stay on schedule.

Carollo has included one kick-off meeting and four monthly progress meetings in our fee proposal. We have included two deliverable review meetings at the 25- and 60-percent design submittals, and three additional meetings are included with the fire department and schools. Carollo will combine monthly progress meetings with deliverable review meetings or other meetings to reduce overall project cost to the City. In addition, Carollo will limit meeting participation to only Carollo's project manager and any other staff required to meet the intended purpose of that meeting.

- ▶ Meeting agendas will be submitted five working days before the meeting. This will ensure that City staff is fully aware of the discussion topics and will provide sufficient notice so that the people necessary to make decisions can attend.
- ▶ Meeting minutes will be prepared within five working days after the meeting. The minutes will include a project decision log and an action item list.

##### 1.3 - Quality Assurance/Quality Control (QA/QC)

Carollo is committed to quality projects. A detailed program is incorporated into each of our projects, with the goal to provide quality engineering services consistent with Carollo standards and meeting or exceeding the expectations of our clients. Our outstanding record of repeat business is a direct result of our ability to consistently impress our clients.

Projects receive a series of reviews at key project points – typically the owner's set deliverable milestones. For this project, Carollo will conduct an internal concept review prior to the delivery of the Preliminary Design Technical Memorandum and at the 25-percent design deliverable. Carollo will then perform constructability review at the 60- and 90-percent, and a detailed check at 90-percent (and subsequent check, if required).

Projects receive independent final checks. The 90-percent design is checked by a senior engineer of the appropriate discipline who has not been involved in the design of the project – in this case, Tim Taylor. The drawings are red-lined using established checking procedures. A final cost estimate is prepared using established procedures, and is compared to those prepared earlier in the project to identify inconsistencies. After bidding the project, bid results are compared to data from past projects and are incorporated into project bidding records. Monitoring of project quality continues through the construction period and provides field feedback to the design team for use on future projects.

**Task 1 Deliverables:**

- ▶ Meeting agendas (5).
- ▶ Meeting minutes, including decision and action item logs (5).
- ▶ Monthly schedule updates (4).
- ▶ Monthly progress reports (4).

**Task 2 - Preliminary Investigation and Design Survey**

Preliminary investigations such as surveying and mapping, existing utility research, and potholing will be conducted under this task. All field work will be coordinated with City staff to ensure project elements are properly coordinated.

**2.1 - Topographical Survey and Mapping**

The topographic surveying will be provided by our subconsultant, Quality Surveying, Inc. The mapping limits will be compiled from black and white aerial photography. The strip mapping limits will be right-of-way to right-of-way. All visible surface features will be shown such as buildings, vaults, manholes, power poles, meters, road signs, driveways, curbs and gutters, curb inlet catch basins, pipes, fences, trees and vegetation, bus pads and other concrete slabs. The aerial manuscript will be field edited to locate culture not show in the photographs. Existing street striping will be provided for the roadways. Elevation will reference the National Geodetic Vertical Datum (NGVD) 1929 datum, or as required by the City.

Included with this task are the following:

- ▶ Street centerline and right-of-way lines.
- ▶ Description and identification of all control points on drawing as well as in tabular form.
- ▶ Basis of bearings based on two found monuments referenced in a record drawing or information.
- ▶ Temporary benchmarks set at 1,000-foot intervals along the pipeline alignment with description of each benchmark set.
- ▶ Location of potholes.
- ▶ Sketches of all manhole inverts measured along the alignment.
- ▶ Cross-sections at intersections for the water project and cross-sections at 50-foot intervals and grade changes along the sewer alignment.

**Task 2.1 Assumptions:**

- ▶ Sewer and storm drain facilities invert to rim will be measured at each manhole within the project.
- ▶ Pothole locations will be marked on the pavement surface.

**Task 2.1 Deliverables:**

- ▶ Topographic and planimetric mapping in AutoCAD format, 40 scale accuracy with 1-foot contour intervals and 60-foot width for the project corridor.

**2.2 - Utility Research/Potholing**

Carollo will research all existing utilities within the project limits and obtain record maps to compile into an existing utility base map for use in design. After review of available mapping and surface utility information from our subconsultant, USI, and once a preliminary alignment of the pipeline is developed and confirmed with the City, we will provide a potholing plan to confirm the vertical and horizontal locations of critical existing utilities that may conflict with the alignment.

USI will perform the potholing to confirm the locations of select underground utilities using vacuum extraction. Pothole locations will be surveyed by USI and incorporated into the base map.

#### Task 2.2 Assumptions:

- ▶ A maximum of 20 potholes will be performed based on the scope of work for potholing provided in the RFP.
- ▶ Backfill for pothole compact and repair with “Perma Patch” asphalt repair mix.

#### Task 2.2 Deliverables:

- ▶ Pothole plan (location map).
- ▶ Pothole information will be integrated into the design and a pothole table will be provided as part of the contract documents.
- ▶ Revised base map with utility location adjustments.

### 2.3 - Environmental (Exempt)

Carollo has reviewed the project and determined it falls under the California Environmental Quality Act (CEQA) exemption statute for pipelines. Therefore, no environmental services have been included in this scope of work. The following statutes apply.

CEQA Guidelines 15282 Other Statutory Exemptions (k) states a project is exempt from CEQA if it includes the following:

*The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.*

In addition, California Public Resource Code 21080.21-Application of Division to Public Right-Of-Way Pipeline Projects Less Than One Mile in Length says:

*This division does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For purposes of this section, “pipeline” includes subsurface facilities but does not include any surface facility related to the operation of the underground facility.*

### Task 3 - Preliminary Engineering

#### 3.1 - Agency Coordination

Carollo has initiated project coordination with Dwight D. Eisenhower Elementary School and Doig

Intermediate School and determined the preliminary school schedules for the 2012 summer school sessions. Carollo has also determined that neither school currently has fire sprinklers. Under this task, Carollo will continue coordination with the schools to determine final summer session schedules and future plans for school improvements. We will also coordinate with the fire department to finalize project-specific fire flow requirements. Carollo will coordinate with OCSD for the crossings of OCSD’s 48-inch truck sewer on Trask Avenue. No meeting is budgeted for OCSD coordination, however, since the trunk sewer is 10 feet deep and the sewer will not be exposed for the crossing.

#### Task 3.1 Assumptions:

- ▶ One meeting required for each of the schools and fire department (three meetings total).

#### Task 3.1 Deliverables:

- ▶ Meeting minutes documenting each meeting.

### 3.2 - Permitting

For this project, a stormwater permit from the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Board (RWQCB) is required for construction. No other permit should be required for construction of the project (with the exception of the filing of a categorical exemption). Design review of the OSCD crossing will be required; however, no formal permit is required by OCSD for the crossing. A permit must be filed with the City for pothole activities during design.

Every project over 1.0 acre of disturbance requires the project proponent to acquire a General Construction Permit (GCP). Carollo’s preliminary evaluation of the project indicates the project will likely impact slightly more than 1.0 acre. The regional board looks at total surface disturbance for all construction activities when developing this baseline. From our preliminary review, the project construction activities will exceed disturbance level. This will require a Notice of Intent (NOI) to be filed with the State RWQCB. The State, in turn, will provide this information to the regional board and the permit will be issued through them. This task will include the completion of the NOI and filing with the State. Any direct costs associated with the NOI submittal to the State will be provided by the City.

All construction activities that involve land disturbance over 1.0 acre require the project proponent to develop a Storm Water Pollution Prevention Plan (SWPPP). It has been our experience that when the owner (or its engineer) of a project develops the SWPPP and provides this document to the contractor, it is easier to enforce and control the contractor's activities in regards to stormwater management and how it effects the construction activities. This task will include the development and initial submittal of the proposed SWPPP to the regional board for approval.

### **3.3 - Easement Requirements**

Carollo's subconsultant, Quality Surveying, will provide coordination, legal descriptions, and sketches (plat maps) necessary to obtain the required easement from the Garden Grove Unified School District (GGUSD). Carollo's review of the project indicates that GGUSD is the only easement required for the project and the remainder of the project can be located in the public right-of way; therefore, it is assumed that one legal description and one plat map are required.

#### **Task 3.3 Assumptions:**

- ▶ One legal description and one plat map are required for the GGUSD property.

#### **Task 3.3 Deliverables:**

- ▶ Legal description and one plat map.

### **3.4 - Develop Preliminary Design Report**

Carollo will prepare and submit a draft Preliminary Design Report (PDR) representing a 25-percent design effort to document the studies conducted as part of this task for the City's review and comment. The PDR will include preliminary plan of the proposed pipeline alignment, summary of discussion with agencies, finalization of pipe sizing for fire flow, preliminary cost opinions, construction schedule, and recommendations for project sequencing. We will discuss City staff comments in a PDR review meeting and incorporate decisions in a final PDR.

#### **Task 3.4 Assumptions:**

- ▶ None.

#### **Task 3.4 Deliverables:**

- ▶ Three hardcopies and an electronic PDF file.

### **3.5 - Develop Final PDR**

Carollo will incorporate District comments into the final PDR.

#### **Task 3.5 Assumptions:**

- ▶ None.

#### **Task 3.5 Deliverables:**

- ▶ Three hardcopies and an electronic PDF file.

### **Task 4 - Construction Documents**

This phase of the project will include development of construction documents for the proposed facilities. The documents will be developed in accordance with the requirements set forth in the RFP, the City's CAD standards, and City of Garden Grove Public Work's Department Standard Plans and Specifications. The development of the specifications will meet the specific needs of the project and will include the technical specifications for the project components and incorporate the use of the City's front-end contract documents. Each submittal will include plans and specifications. Cost estimates are proposed to be submitted at the 60-percent, 90-percent, and final (100-percent) document submittals.

#### **4.1 - Develop 60-Percent PS&E Submittal**

Development of the 60-percent plans, specifications, and estimates (PS&E) submittal package will be completed under this task. Ten copies of the PS&E will be provided to the City for review. Information provided from the City in the form of review comments from the PDR will be incorporated into the 60-percent PS&E. As presented in the project schedule included in this proposal, a technical review meeting to discuss comments on the 60-percent PS&E submittal will be conducted during the City's review period.

#### **4.2 - Develop 90-Percent PS&E Submittal**

Development of a 90-percent PS&E submittal package will be completed under this task. Ten copies of the PS&E will be provided to the City for review. Information provided from the City in the form of review comments from the 60-percent review will be incorporated into the 90-percent documents. A technical review meeting to discuss City comments

on the 90-percent PS&E submittal will be conducted during the City's' review period.

#### **4.3 - Develop 99-Percent Plans and Specifications Submittal**

Development of a 99-percent plans and specifications submittal package will be completed under this task. No updated cost estimate is proposed to be submitted with the 99-percent submittal. Ten copies of the submittal will be provided to the City for review. Information provided from the City in the form of review comments from the 90-percent review will be incorporated into the 99-percent documents.

#### **4.4 - Develop 100-Percent Plans and Specifications Submittal**

Development of a 100-percent plans and specifications submittal package will be completed under this task. No updated cost estimate is proposed to be submitted with the 100-percent submittal. Ten copies of the submittal will be provided to the City for review. Information provided from the City in the form of review comments from the 99-percent review will be incorporated into the 100-percent documents.

#### **4.5 - Develop Final PS&E Submittal**

Development of a final PS&E submittal package will be completed under this task. Final submittals shall be two sets of reverse-read mylars, digital format shall be AutoCAD "DWG" release 2004 or later without x-reference, and all project specifications shall be in hardcopy and Microsoft® Word. Information provided from the City in the form of review comments from the 100-percent review will be incorporated into the final documents. Two copies of the project design notebook will be provided including all pertinent correspondence, calculations, quantity, and cost estimates, and shall be stamped by a registered engineer.

#### **4.6 - Bid Phase Services**

Bidding of projects of this size typically requires about one and a half months. Services provided under this task include assisting the City with answering questions that arise during the bidding process. A level of effort of 8 hours has been allotted in the fee estimate for answering questions during the bidding period.

##### **Task 4 Assumptions:**

- ▶ City standard drawings and specifications will be included by reference and not reproduced in the project drawings and specifications.
- ▶ Bid-phase services consist of providing the City with answers to bidders' questions.
- ▶ City will develop and distribute addenda to bidders.
- ▶ Attendance at pre-bid meeting/bid opening at the City's request.
- ▶ Level of effort of 8 hours during the bidding period.

##### **Task 4 Deliverables:**

- ▶ Ten progress prints of the 60-, 90-, 99-, and 100-percent progress submittals.
- ▶ Final submittals shall be two sets of reverse-read mylars.
- ▶ Digital format shall be AutoCAD "DWG" release 2004 or later without x-reference.
- ▶ Project specifications shall be in Microsoft® Word.
- ▶ Two copies of the Project Design Notebook.

**EXHIBIT B**

**SCHEDULE OF PAYMENT**



**ATTACHMENT A  
ESTIMATED WORK HOURS  
CITY OF GARDEN GROVE WATER IMPROVEMENTS  
PROJECT NOS. FF011 AND FF084**

Task No.	Description	Work Hours by Classification						Fees			Total Cost	
		Inge Wiersema \$197	Tim Taylor \$197	Jack Adam \$197	Megan Brown \$139	Steve Solecki \$103	Support \$30	Total Hours	Labor	Subconsultants		Material (Direct Costs)
<b>1. Project Management (Fee is spread among Tasks 2 through 4)</b>												
<b>2. Preliminary Investigation and Design Survey</b>												
2.1	Survey and Mapping			4					\$556	\$13,000		\$13,556
2.2	Utility Research/Potholing			4					\$556	\$12,000		\$12,556
	<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>\$1,112</b>	<b>\$25,000</b>	<b>\$-</b>	<b>\$26,112</b>
<b>3. Preliminary Engineering (25% Design)</b>												
3.1	Agency Coordination			4					\$1,344		\$500	\$1,844
3.2	Permitting			2					\$950			\$950
3.3	Easement Requirements <sup>(1)</sup>			2					\$950			\$950
3.4	Draft PDR	2	2	2	22	36	8	72	\$8,274			\$8,274
3.5	Final PDR			2	6	12	4	24	\$2,824			\$2,824
	<b>SUBTOTAL</b>	<b>2</b>	<b>2</b>	<b>12</b>	<b>40</b>	<b>48</b>	<b>12</b>	<b>116</b>	<b>\$14,342</b>	<b>\$-</b>	<b>\$500</b>	<b>\$14,842</b>
<b>4. Final Engineering</b>												
4.1	60% Design - Plans/Specs.	2	2	4	18	60	4	90	\$10,224			\$10,224
4.2	90% Design - Plans/Specs.	2	2	4	12	40	2	62	\$7,150			\$7,150
4.3	99% Design - Plans/Specs.		1	2	4	18		25	\$3,001			\$3,001
4.4	100% Design - Plans/Specs.		1	2	4	8		15	\$1,971			\$1,971
4.5	Final Plans/Specs.			2	2	4		8	\$887			\$887
4.6	Bidding Assistance			2	2	4		8	\$887			\$887
	<b>SUBTOTAL</b>	<b>4</b>	<b>6</b>	<b>16</b>	<b>42</b>	<b>134</b>	<b>6</b>	<b>208</b>	<b>\$24,120</b>	<b>\$-</b>	<b>\$-</b>	<b>\$24,120</b>
	<b>TOTAL WORK HOURS</b>	<b>6</b>	<b>8</b>	<b>28</b>	<b>90</b>	<b>182</b>	<b>18</b>	<b>332</b>	<b>\$39,574</b>	<b>\$25,000</b>	<b>\$500</b>	<b>\$65,074</b>

<sup>(1)</sup> Subconsultant cost for preparing easement documents is included in subtask 2.1.

**ATTACHMENT B**  
**CAROLLO ENGINEERS, INC.**  
**FEE SCHEDULE**

**As of March 1, 2011**  
**California**

	<u>Hourly Rate</u>
<b>Engineers/Scientists</b>	
Assistant Professional	\$139.00
Professional	170.00
Project Professional	197.00
Lead Project Professional	223.00
Senior Professional	242.00
<b>Technicians</b>	
Technicians	103.00
Senior Technicians	147.00
<b>Support Staff</b>	
Document Processing/Clerical	90.00
<b>Other Direct Expenses</b>	
Travel and Subsistence	at cost
Mileage at IRS Reimbursement Rate Effective January 1, 2011:	\$.51 per mile
Subconsultant	cost + 10%
Other Direct Cost	cost + 10%
Expert Witness	Rate x 2.0

This fee schedule is subject to annual revisions due to labor adjustments.

