

**City of Garden Grove
and
Garden Grove Sanitary District**

INTER-DEPARTMENT MEMORANDUM

To:	Matthew J. Fertal	From:	William E. Murray
Dept:	City Manager / General Manager	Dept:	Public Works
Subject:	APPROVAL OF CONTRACT WITH CIVILTEC ENGINEERING, INC. FOR ON-CALL CONSTRUCTION INSPECTION SERVICES	Date:	May 28, 2013

OBJECTIVE

To recommend that the City Council and the Garden Grove Sanitary District (GGSD) Board approve a contract with Civiltec Engineering, Inc. for on-call construction inspection services of various water and sewer improvement projects in the amount of \$245,000.

BACKGROUND

Water Services has two (2) water improvement projects and the GGSD has two (2) sewer improvement projects that will be under construction within the next two to six months. The projects involve rehabilitation/reconstruction of an existing sewer pump station, construction of approximately 7,000 linear feet of new replacement water pipe and approximately 8,100 linear feet of new replacement sewer pipe, and other necessary appurtenants. Due to the large scale of these two projects, staff has determined that outside construction inspection services are necessary to assist in-house construction inspection staff.

DISCUSSION

Staff requested proposals from four (4) firms to provide on-call construction inspection services. Out of those four (4), three (3) consultants submitted proposals. Staff members evaluated and rated the submitted proposals on the basis of qualifications. Based on evaluation results, Civiltec Engineering, Inc. rated highest in qualifications and its ability to provide on-call construction inspection services for various water and sewer projects. The following is a summary of the ratings with the highest total being the most qualified:

	Civiltec Monrovia, CA	Lee & Ro, Inc. City of Industry, CA	URS Santa Ana, CA
<i>Rater A</i>	<i>169.0</i>	<i>161.5</i>	<i>159.5</i>
<i>Rater B</i>	<i>147.5</i>	<i>143.5</i>	<i>140.0</i>
<i>Rater C</i>	<i>171.0</i>	<i>167.0</i>	<i>163.0</i>
Totals	487.5	472.0	462.5

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CONSTRUCTION INSPECTION SERVICES

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After determining that Civiltec was the most qualified firm, City staff interviewed Civiltec Engineering, Inc. and negotiated an agreement for its services.

FINANCIAL IMPACT

There will be no impact to the General Fund. The services will be financed with Water and Sewer Funds, as appropriate, in the amount of \$245,000.

RECOMMENDATION

It is recommended that the City Council:

- Approve the Agreement with Civiltec Engineering, Inc. for a 2-year period in the amount of \$245,000, for on-call construction inspection services for water projects; and
- Authorize the City Manager to execute the agreement and make minor modifications as appropriate on behalf of the City.

It is recommended that the Sanitary District Board of Directors:

- Approve the Agreement with Civiltec Engineering, Inc. for a 2-year period in the amount of \$245,000, for on-call construction inspection services for sewer projects; and
- Authorize the General Manager to execute the agreement and make minor modifications as appropriate on behalf of the District.


WILLIAM E. MURRAY, P.E.
Public Works Director/City Engineer


By: Myung Chun, P.E.
Associate Engineer

Recommended for Approval



Matthew Fertal
City Manager

Attachment: Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into, to be effective the 28th day of May, 2013, by and between the CITY OF GARDEN GROVE, a municipal corporation ("City"), and the GARDEN GROVE SANITARY DISTRICT, a subsidiary special district formed and existing pursuant to the Sanitary District Act of 1923, California Health and Safety Code Section 6400 et seq. ("District"), on the one hand, and CIVILTEC ENGINEERING, INC. a California Corporation, ("Consultant"), on the other hand. City, District and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, City and District have determined that there is a need for on-call construction inspection services for various water and sewer improvement projects (the "Project");

WHEREAS, City and District each desire 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 and District each agree 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 for a period of two (2) years, 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 or District, Consultant shall provide City and/or District 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 and/or District on an hourly basis and in accordance with the charges and fee schedule attached as Exhibit "B," except as otherwise set forth herein, provided the compensation paid by City and District, combined, under this Agreement shall not exceed Two Hundred Forty Five Thousand Dollars (\$245,000) for a two (2) year period.

C. Monthly Payment

1. City and District each agree 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 and District, separately, monthly or periodic statements requesting payment. Such requests shall be based upon the amount and value of the Services performed by Consultant for City or District 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 and/or District. Invoices shall be submitted on or about the first business day of each month, for Services provided the prior month. City and District each 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 and/or District determines that the approved written Scope of Work under this Agreement or any specified task hereunder is incomplete, the City Manager / District General 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 and/or District General Manager.

IV. TERMINATION

City and District 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 and District shall pay Consultant its allowable costs incurred to date of termination and those allowable costs determined by City and District 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 and District terminate 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 or District under this Agreement. Upon termination of the Agreement pursuant to this Section, Consultant will submit invoices to City and District pursuant to Section 3. Consultant may terminate this Agreement, with or without cause, upon thirty (30) days written notice to both City and District.

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 and District 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 / General 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 and District 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 or District may be entitled at law, in equity or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by City and/or District 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 or a District 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 or

District 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 or District nor any of their 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 or District's offices.

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

C. No City or District 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, neither City nor District shall pay salaries, wages, or other compensation to Consultant for the performance of Services under this Agreement. City and District 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 state or federal governmental agency claims or determines that City and/or District 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 and hold harmless City and District from all such claims and/or 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 and District 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 and District. 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 and District. If Consultant is permitted to subcontract any part of this Agreement by City and District, Consultant shall be responsible to City and District 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 or District. All persons engaged in the work will be considered employees of Consultant. City and District 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 and District 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 and/or District.

Consultant shall provide to City and District certificates of insurance in a form acceptable to City and District 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 and District are 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 or District and shall name the City of Garden Grove, Garden Grove Sanitary District, and their officers, officials, employees, agents and volunteers as additional insureds by endorsement to the insurance policies. Except as expressly authorized herein, all insurance shall be on an occurrence basis.

1. Errors and Omissions Insurance

Consultant shall maintain in full force and effect throughout the term of this Agreement, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000.00)

per claim or occurrence, in accordance with the provisions of this Section. If the policy of insurance is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

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

2. Workers' Compensation

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

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability:

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

2. Automobile Liability:

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

3. Employer Liability:

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

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City Manager / General Manager. At the option of the City Manager / General Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of Garden Grove, Garden Grove Sanitary District, and their officers, 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 / General 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, Garden Grove Sanitary District, and their 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 City of Garden Grove, the Garden Grove Sanitary District, and their respective 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 of Garden Grove, Garden Grove Sanitary District, and their officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City of Garden Grove, Garden Grove Sanitary District, and their respective officers, officials, employees, agents, and volunteers shall be in excess of Consultant's insurance and shall not contribute with it.

3. A waiver of subrogation shall be provided, for all policies, against the City of Garden Grove, Garden Grove Sanitary District, and their officers, officials, employees, agents, and volunteers.

4. Any failure to comply with reporting or other provisions of the policies, including breaches of warranties shall not affect coverage provided to the City of Garden Grove, Garden Grove Sanitary District, and their respective officers, officials, employees, agents, and volunteers.

5. 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.

6. 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 and/or District.

7. 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 and District for review.

E. Verification of Coverage

Consultant shall furnish City and District 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 and District 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, the Garden Grove Sanitary District, and their respective councilmembers, directors, 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, the Garden Grove Sanitary District and their councilmembers, boardmembers, directors, 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 or District, as applicable, will reimburse Consultant for the reasonable costs of defending the Indemnified Parties against such Claims, except City and District 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 and/or District 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, the Garden Grove Sanitary District, and their councilmembers, boardmembers, directors, 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 and District 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 and District 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 and District's prior written authorization. Consultant, its officers, employees, agents or subcontractors shall not without written authorization from the City Manager / General Manager or unless requested by City's Attorney / District'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 and District proper notice of such subpoena or court order. Consultant shall properly notify City and District 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 and District retain the right, but have 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 and/or District. Consultant agrees to cooperate fully with City and District and to provide City and District 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 and District's right to review any such request or response does not imply or mean City or District 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 and/or District, as applicable, upon the termination or completion of the work. Consultant agrees to furnish to City and/or District, as applicable, 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 and/or District.

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 and District:

City of Garden Grove /
Garden Grove Sanitary District
13802 Newhope Street
Garden Grove, CA 92843
Attention: Myung Chun, P.E.

To Consultant:

Civiltec Engineering, Inc.
118 West Lime Avenue
Monrovia, CA 91016
Attention: W. David Byrum, 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 Council Member, Board Member, official, officer or employee of City or District 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 or District, 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 or District shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or District, 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.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF GARDEN GROVE

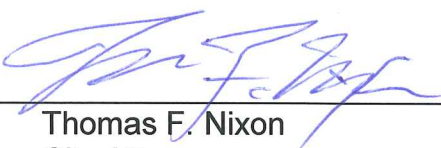
By: _____
Matthew J. Fertal
City Manager

ATTEST:

APPROVED AS TO FORM:

Woodruff, Spradlin & Smart

By: _____
Kathy Bailor
City Clerk

By:  _____
Thomas F. Nixon
City Attorney

GARDEN GROVE SANITARY DISTRICT

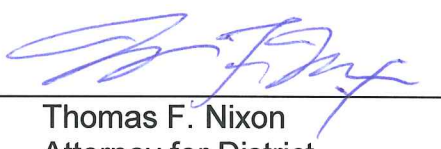
By: _____
Matthew J. Fertal
General Manager

ATTEST:

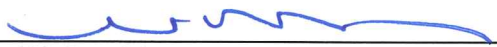
APPROVED AS TO FORM:

Woodruff, Spradlin & Smart

By: _____
Kathy Bailor
Secretary

By:  _____
Thomas F. Nixon
Attorney for District

CIVILTEC ENGINEERING, INC.

By:  _____
W. David Byrum, P.E.
Senior Vice President


By:  _____
Diana Occhipinti
Corporate Secretary

EXHIBIT A

SCOPE OF SERVICES

“EXHIBIT A”

Garden Grove Sanitary District
Myung J. Chun, P.E., Associate Engineer
Proposal to Provide “On-Call” Construction Inspection Services
March 14, 2013



Approach – Typical Scope of Services

Civiltec typically divides the proposed services into several tasks. This arrangement of tasks will help *Civiltec* and the City in orchestrating the efforts of overall project management, support services, agency coordination, contractor compliance with the contract and completion and closeout of the project.

Coordination and Inspection Services

- A. **Initial Kickoff Meeting and Workshop.** *Civiltec* will initiate and attend an initial kickoff meeting with the City, Project Team and Design Consultants. The *Civiltec* inspection services coordinator and the proposed inspector will attend this meeting. This meeting will introduce project team members, formalize project communication, discuss project schedule, review scope of work, and request pertinent data, reports, documents, and plans from the City that are relevant to the Project. This meeting will be a workshop to discuss any and all issues known about the project goals. *Civiltec* will provide a meeting agenda and action items and minutes of the meeting for City records.
- B. **Records Review.** *Civiltec* will obtain and review plans, documents, records and data for the sites proposed for use. The *Civiltec* Inspector will become completely familiar with the environmental documents, permits and other obligations that must be implemented by the Contractor and City.
- C. **Preconstruction Meeting.** The *Civiltec* Inspector will attend a preconstruction meeting. The Inspector will video record the site with the Project Team prior to construction and post construction. Provide the DVD to the City. We will document the condition of the existing roadways to ensure that any existing damage is well documented. We will perform this same review at the end of the construction project and document any changes to streets.
- D. **Job Meetings.** The *Civiltec* Inspector will arrange and conduct regular and weekly job site meetings with the City, contractor and participating outside consultants and agencies. Develop agenda of issues to be discussed and minutes of the meeting outlining action items for the contractor and each Project Team member. We believe these weekly jobsite meetings keep the contractor focused on the tasks at hand and upcoming tasks.
- E. **Monthly Management Meetings.** The *Civiltec* Inspector will attend monthly management meetings at the City’s office with the Project Team to update work progress, schedule, and contractor performance. Review contractor’s invoicing and changes in work. Provide updates of above to Project Team on a continual basis to expedite work progress.
- F. **Master Schedule.** The *Civiltec* Inspector will coordinate with the City regarding the master construction schedule. Continually develop methods to expedite work progress and monitor

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contractor's progress with work in relation to the schedule and provide solutions. We will notify all parties involved of critical path issues as they arise. We will ensure the contractor issues monthly schedule updates and ensure the schedules reflect actual work performed. We will tie the progress schedule to the expenditures/invoicing by the contractor on a monthly basis to ensure the contract and budget controls are in compliance.

- G. **Submittals and Shop Drawings.** The *Civiltec* Inspector will provide input to shop drawings, manufacturer's submittals and safety instructions as requested by the City. It is understood the Design Engineer will review and approve all submittals.
- H. **Coordination.** The *Civiltec* Inspector will coordinate multiple contractors' interfacing on the project in the same time frame, as necessary. Coordinate construction activities with adjacent land owners, agencies, utility companies, the public and parties utilizing the site and adjacent streets. Coordinate contractor's requirements for supplemental water. Document contractor's relations with any outside parties. Observe and record the physical condition of any temporary site security measures provided by the contractor. Coordinate the need for field geotechnical, geologic, and technical personnel to conduct excavation inspection, observations, concrete cylinder break tests and compaction testing at the project site. Coordinate laboratory services for soil compaction, concrete break tests and for rebar sample tests.
- I. **Inspection:** *Civiltec* will provide on-going inspection as needed of construction work identified to assure quality of construction and adherence to specifications, drawings, the CEQA documents and submittals. We will monitor and ensure the Contractor's compliance with all requirements of the project. Document daily work progress with written logs, digital photographs and video logs as well as monitor all major equipment deliveries in accordance with approved shop drawings. Maintain and continually organize the required folders and binders during construction so all field documents are readily available to the City. Provide weekly summary reports to the City and Project Team documenting progress that will include daily reports, test results and an updated schedule. *Civiltec* has the ability to provide offsite inspection, as necessary, to insure quality control and compliance with submittals, as requested by the City. Observe the contractor for compliance with site and job safety requirements. Inform the City of any concerns or problems concerning site or job safety observed.
- J. **RFI's and Change Conditions:** The *Civiltec* Inspector will participate in the management of RFI's and change orders requested by the contractor. Provide RFI's and requests for change orders with documentation to the City and Design Engineer for review and recommendations. Implement changes as required and directed by the Project Team.
- K. **Pay Estimates:** The *Civiltec* Inspector will obtain, verify, analyze and process contractor's request for monthly progress pay estimates and the final pay request. Obtain conditional and unconditional lien releases from contractors.

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- L. **Record Drawings:** The *Civiltec* Inspector will maintain the official construction record drawings indicating any changes in the design, materials, dimensions and details. This work will be done in concert with the contractor. The redline drawings will be issued to the City for production of the final record drawings.
- M. **Final Inspection:** The *Civiltec* Inspector will arrange and conduct the final inspection of work placed into service to be witnessed by the Project Team. Prepare a "punch list" of all items to be completed by the contractor to obtain final completion. Ensure items are completed.
- N. **Project Closeout:** The *Civiltec* Inspector will work with the City to resolve all outstanding payment issues and recommend final payment to contractor. Prepare and provide a completion report to the City consisting of a discussion of construction activities, final schedule, contractor evaluation, photographs, reports, test results, change orders, and miscellaneous documentation. Meet with the City to close out the Project.

EXHIBIT B

SCHEDULE OF PAYMENT

“EXHIBIT B”



General Civil, Transportation, Municipal, Water and Wastewater Engineering
Planning, Construction Management and Surveying
Monrovia Prescott Phoenix
RATE SCHEDULE

EFFECTIVE UNTIL DECEMBER 31, 2013

Principal Engineer.....	\$195.00
Principal Engineer - Expert Witness Testimony.....	\$325.00
Senior Engineer.....	\$180.00
Project Manager.....	\$155.00
Project Engineer.....	\$145.00
Staff Engineer.....	\$135.00
Senior Designer.....	\$125.00
Designer.....	\$115.00
Designer/Drafter.....	\$100.00
Planning Technician.....	\$95.00
Senior Resident Engineer/Inspector.....	\$90.00
Resident Engineer/Inspector.....	\$80.00
Drafter.....	\$85.00
Senior Administrative Assistant.....	\$75.00
Administrative Assistant/Clerical.....	\$65.00
One Man Survey Party.....	\$175.00
Two Man Survey Party.....	\$225.00
Survey Manager.....	\$130.00
Staff Land Surveyor.....	\$115.00
Survey Technician.....	\$100.00
Subcontracted Services.....	Cost plus 15%
Mileage.....	\$0.55/mile

NOTE: All rates are effective until December 31, 2013. Any increases in rates after that date will be limited to 8% maximum.

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