

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
Dept.: City Manager
Subject: AWARD CONTRACT TO PSOMAS FOR CONSTRUCTION INSPECTION SERVICES OF PROJECT NO. 7394 - REHABILITATION OF WEST GARDEN GROVE WELL AND BOOSTER PUMPING FACILITY

From: William E. Murray
Dept.: Public Works
Date: January 14, 2014

OBJECTIVE

To recommend that the City Council award a contract to Psomas for construction inspection services of Project No. 7394 - the Rehabilitation of West Garden Grove Well and Booster Pumping Facility.

BACKGROUND

The City requires outside construction inspection services for the Rehabilitation of West Garden Grove Well and Booster Pumping Facility – Project No. 7394. It is anticipated that the construction contract for this project will be awarded in January 2014 and the construction to commence in March 2014.

This project will rehabilitate the existing well and booster pumping facility, originally constructed in the early 1970's. The project consists of removal of existing and installation of new natural gas engines, vertical turbine pumps, right angle drive, LPG system, pump discharge and piping, and other associated equipment, as well as the retrofit and improvement of existing roof system, pump station floor drain system, sump pump and vault structure, and Murphy control panel. In addition this project will provide PLC and SCADA programming and integration services; as well as miscellaneous electrical wiring and facility improvements including removal of existing insertion venturi meter and installation of new magnetic flow meter in the existing meter vault, removal of existing and installation of new roof hatch and exterior double doors, and painting and finishing of existing and new building improvements.

DISCUSSION

Staff requested proposals from three firms to provide construction inspection services. Only two (2) of the consultants submitted proposals. Three staff members rated the proposals on the basis of qualifications without considering cost.

AWARD CONTRACT TO PSOMAS FOR CONSTRUCTION INSPECTION SERVICES OF PROJECT NO. 7394 – REHABILITATION OF WEST GARDEN GROVE WELL AND BOOSTER PUMPING FACILITY

January 14, 2014

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The following is a summary of the ratings; the highest total being the most qualified:

	Psomas Santa Ana, CA	Lee & Ro City of Industry, CA
<i>Rater A</i>	156	151
<i>Rater B</i>	144	141
<i>Rater C</i>	175	172.5
Totals	475	464.5

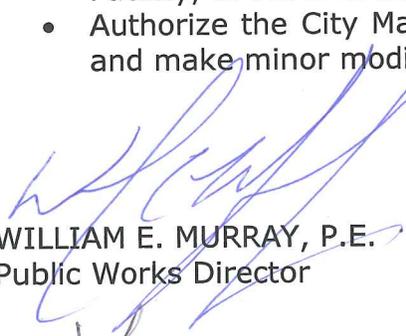
FINANCIAL IMPACT

There will be no impact to the General Fund. This project is included in the 2013-14 Capital Improvement Budget and will be financed with Water Funds.

RECOMMENDATION

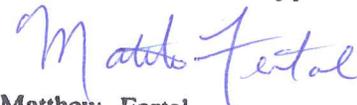
It is recommended that the City Council:

- Award a contract to Psomas for construction inspection services for Project No. 7394 – Rehabilitation of West Garden Grove Well and Booster Pumping Facility, in the amount of \$239,920; and
- Authorize the City Manager to execute the agreement on behalf of the City, and make minor modifications as appropriate.


WILLIAM E. MURRAY, P.E.
Public Works Director


By: Samuel Kim
Project Engineer

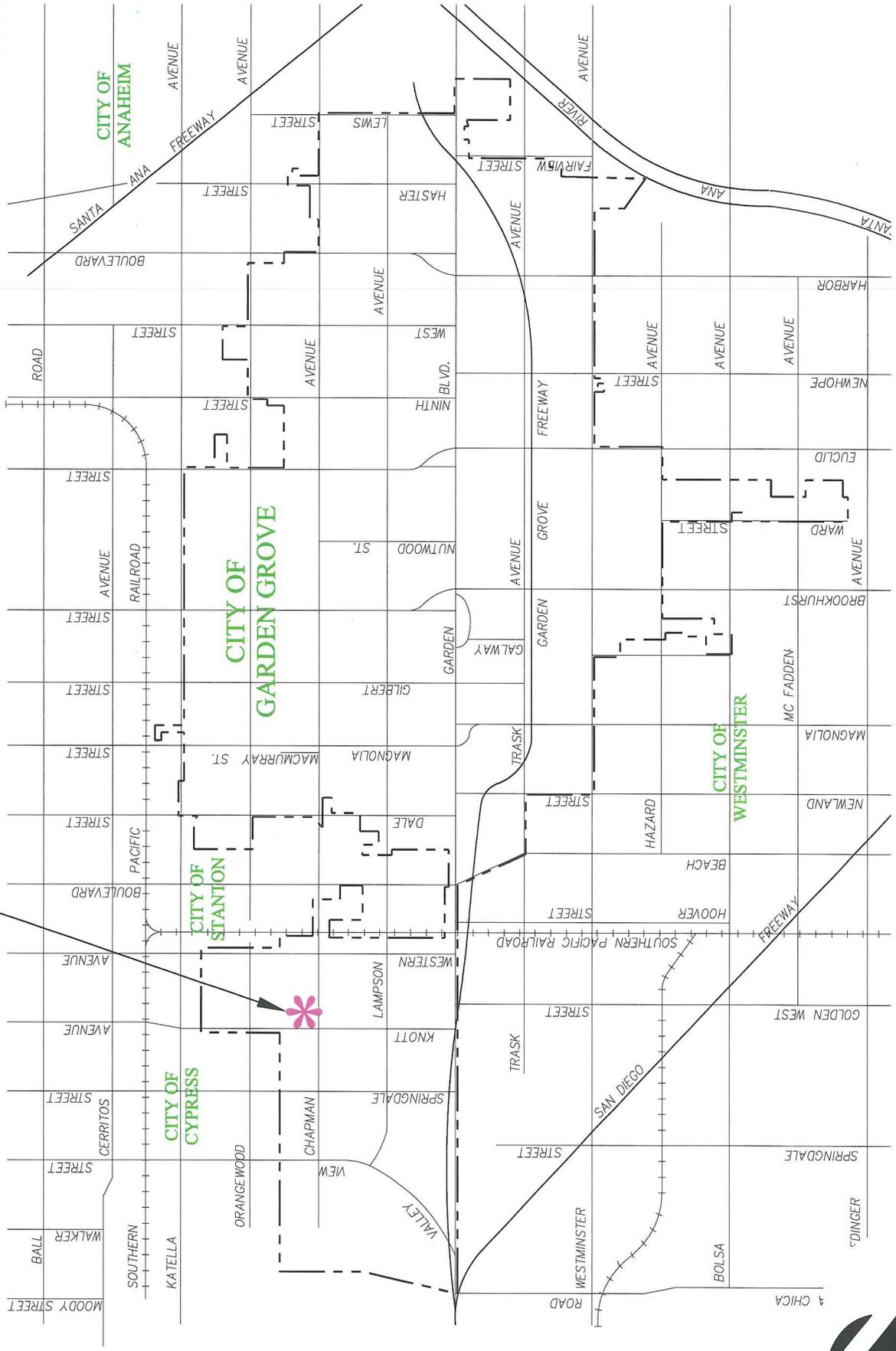
Recommended for Approval


Matthew Fertal
General Manager

Attachments: 1) Location Map
2) Professional Service Agreement

ATTACHMENT NO. 1

PROJECT LOCATIONS

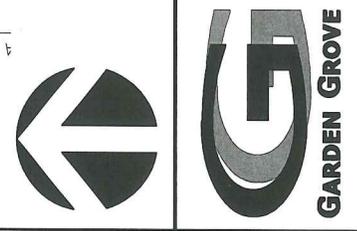


PROJECT LOCATION MAP

CHECKED BY: S.K.	SCALE: N.T.S.	PROJECT NO. 7394	DATE: JAN. 2,
PREPARED BY: M.C.	REHABILITATION OF WEST GARDEN GROVE WEL. BOOSTER PUMPING FACILITY		
DRAWN BY: M.C.			



City Of Garden Grove
Department Of Public Works



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into, to be effective the 14th day of January, 2014, by and between the CITY OF GARDEN GROVE, a municipal corporation, hereinafter referred to as "City," and Psomas, a California 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 construction management and Inspection services for Project No. 7394 - the Rehabilitation of West Garden Grove Well and Booster Pumping Facility (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 \$239,920.

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: Psomas
3 Hutton Centre Drive, Suite 200
Santa Ana, CA 92707
Attention: Mr. Joseph Gutierrez

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.

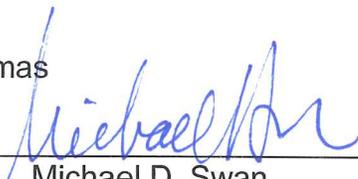
IN WITNESS WHEREOF, this Agreement has been executed in the name of City, by its officers thereunto duly authorized, and Consultant as of the day and year first above written.

CITY OF GARDEN GROVE

By: _____
Matthew J. Fertal
City Manager

ATTEST:

By: _____
Kathleen Bailor
City Clerk

Psomas
By:  _____
Michael D. Swan
Vice President

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a Partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

Woodruff, Spradlin & Smart

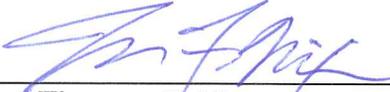
By:  _____
Thomas F. Nixon
City Attorney

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT A

CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES WEST GARDEN GROVE WELL / BOOSTER PUMPING FACILITY REHABILITATION (PROJECT NO. 7394)

SCOPE OF SERVICES

Pre-Construction Phase

- ▶ *Review and be knowledgeable of the contract documents prior to the pre- construction meeting.* Psomas' Construction Manager has already reviewed the contract documents and is very familiar with the project requirements, and has stopped by the project site. The Psomas Construction Manager will visit the site prior to the Pre-construction meeting, with the City's permission, and review existing facilities closely. The Construction Manager will come to the Pre-Construction meeting fully prepared.
- ▶ *Review and be knowledgeable of existing site and conditions.* See comments under first bullet.
- ▶ *Conduct the pre-construction meeting and provide detailed meeting minutes of that meeting.* The Construction Manager will draft an agenda for the pre-construction meeting and run it by the City to add items of interest to the City. The agenda will have an item for the Contractor to ask questions and discuss items of interest to the Contractor. Unless the City has other ideas, the RE can record the meeting proceedings, and make the minutes after the meeting. The draft of the meeting minutes will be sent to the City for review and comment, before distributing to other meeting participants.

Construction Phase

- ▶ *Serve as the City's representative and liaison with the Contractor during the construction of the project.* The Construction Manager will serve as the City's representative on the project. However, the Construction Manager will not make any commitments on behalf of the City, without the City's concurrence. The role of the Construction Manager will be of liaison and coordination. The Construction Manager will observe and report to the City on a daily basis.
- ▶ *Provide daily Construction Management and all inspection services of the work covered in the contract documents.* The Construction Manager will follow the contract documents during the construction phase of this project. The Construction Manager will not allow any deviations from the contract documents, unless authorized by the City through due process. Should the Contractor want to deviate from the contract documents, such requests must be submitted through RFIs, submittals, substitution requests, or through other procedures allowed in the contract documents. In all cases, the City has the final authority. The Construction Manager will work closely with City staff and will fully inform the City staff on the project progress.
- ▶ *Prepare and submit to the City daily inspection reports documenting the contractor's work force, material and equipment used, a summary of construction activities, field problems, disputes or claims, resolutions of issues and directions given to the Contractor. Inspection reports shall be complete and submitted to the City monthly.* The Construction Manager will submit detailed daily reports in sufficient detail to fully inform the City on the progress of the project. The daily reports will be attached with sufficient pictures to give the City staff sufficient information about progress of the project. The inspection report and pictures will be transmitted electronically to the City staff before the end of each work day. Items requiring decision by the City will be highlighted and followed up by email and phone calls, after submitting the daily reports.

- ▶ *Administer the construction contract per Construction Contract documents, City of Garden Grove Standard Specifications and Plans, Garden Grove Municipal Code and other applicable standards. City Standard Specifications and Plans, as well as other applicable codes and standards will be maintained electronically in the project files for use as reference in the course of construction.*

- ▶ *Prepare and maintain a correspondence log organized in chronological order with the following headings:*

Section 1- Correspondence with the Contractor

Section 2 - General Correspondence

Section 3 – Inspection Reports

Section 4 – Material Information/Survey

Section 5 - Weekly Statement of Working Days

Section 6 – Financial Information

Psomas will set up an electronic file for all project data and information. The information referenced here by the City will be kept in that file, plus many more project information and data. Psomas' Data Tracking System (DTS) is a powerful, and yet, easy to use tool. City staff will be given access to DTS at all times.

- ▶ *Prepare bi-weekly statement of working days documenting the construction progress, time of completion, delays and time extensions and submit to the Contractor and the City bi-weekly. Psomas will prepare Weekly Statements of Working Days on electronic forms. Psomas can submit these to the City no later than each Monday morning for the previous week. However, Psomas can also transmit these to the City bi-weekly, if the City desires.*
- ▶ *Receive, log, review, and process all Contractor submittals and shop drawings. Psomas' Data Tracking System (DTS) is set up to log Contractor submittals as they come in, and as they are sent back with a response. The DTS will show exactly the status of each submittal. The Construction Manager will check DTS frequently to see if a submittal is held in the review process, and will follow-up with the appropriate party to process the submittal.*
- ▶ *Effectively and expeditiously communicate with City staff, Design Consultants and Contractor to identify conflicts, construction problems, coordination issues and to obtain needed action and response to submittals and RFIs. Daily communication with all parties involved in the project will be through email. Verbal communication will be backed up with emails for documentation purposes. Emails may have as attachments diagrams, maps, tables, copies of submittal and RFIs. The project will be handles in such a manner that information can be traced even after a long lapse of time.*
- ▶ *Maintain a document tracking system for submittals, RFIs, field orders, change orders, claims inspection reports, test reports, etc. Psomas Data Tracking System (DTS) is designed to accomplish the City's objectives in this regard. The DTS has been used successfully by the RE on numerous past projects.*
- ▶ *Review the construction progress schedules and provide assessment of the progress to the City with recommendations to maintain or improve adherence to the approved project schedule. The Construction Manager will review the Contractor's Master schedule and provide input and suggestions to the City. The Construction Manager will also review updates to the Contractor's schedule and identify the areas where slippage is occurring. He will discuss with the Contractor ways the Contractor proposes to maintain the project progress. The*

Construction Manager will make recommendation to the City staff regarding improvements to the schedule. Progress meetings will be a good venue to discuss schedule issues in the presence of all parties, including the Contractor.

- ▶ *Prepare and maintain a photo journal documenting the construction progress.* Photos shall be taken before construction begins, during construction and upon completion of the project. The journal shall comply with the following:
 1. Kept in a 3-ring binder that is clearly labeled on the cover and the spine with project name and number (more than one may be required for manageability).
 2. Date stamped color photographs with 4"x6" dimensions
 3. Captions for each photo describing orientation and the reason the shot was taken.

The Construction Manager will take detailed digital photos before the project starts. Particular attention will be focused on areas which might change or deteriorate as a consequence of construction work. Examples are surface improvements, pavement, curb and gutter, etc. The Construction Manager will take many pictures daily enough to be able to tell the story of what took place on each day even to those who are remote from the project. The pictures attached with the Daily Reports will have captions to explain the items in the pictures. The Construction Manager will also take pictures after the project completion. A few pictures will be attached each with the Daily Report. Pictures from before, during, and after construction will be saved in DTS for the City staff to have access to and to review as needed.

- ▶ *Confirm in writing that work being inspected conforms to the contract requirements and promptly report unacceptable work to the City and Contractor.* Work not conforming to the contract documents will be reflected in a Notice of Non-Compliance and saved in the contract files. However, the Contractor will be notified verbally should an item of non-compliance occur. Such verbal references will be reflected in the Daily Reports. Additionally, the Construction Manager will discuss such items with City staff and suggest actions to handle or rectify the situation.
- ▶ *Monitor project work and adjacent areas for unsafe conditions and promptly report it to the City and the Contractor for resolution.* Safety, both of the public and of the workers, is of paramount importance in the implementation of this project. In general the Construction Manager will bring to the attention of the Contractor any unsafe conditions and report it to the City. Due to the importance of safety issues, email will be the mode of communication for good documentation and tracing. If the safety issue is serious enough that could threaten life and health, the Construction Manager will ask the City its permission to stop that particular operation until the unsafe condition is mitigated. In all conditions, the Construction Manager will work in close coordination with the Contractor and the City until the unsafe condition is mitigated.
- ▶ *Enforce all of the provisions of the Storm Water Pollution Prevention Plan and/or Storm Water Pollution Control Plan.* The Construction Manager will inquire with City staff regarding the SWPPP and follow-up with the Contractor to ensure that SWPPP issues are mitigated and SWPPP reports are turned in regularly. The Construction Manager will scan the SWPPP reports and file them in the DTS. A digital copy of each SWPPP reports will be transmitted to City staff, as soon as received from the Contractor.
- ▶ *Perform all duties in a manner that promotes the cost-effective execution and progress of the work.* The Construction Manager is experienced in minimizing potential change orders and helping with managing project costs. Conditions that could be conducive to extra costs will be identified in advance and ways found to mitigating those conditions. The Construction

Manager will discharge his duties in a timely manner to avoid delays in the project, and thus eliminate potentials for costs caused by such delays. Where changes might become necessary in the course of the project, the Construction Manager will provide recommendations to City staff in selecting the least costly options for bringing about those changes.

- ▶ *Approve materials and workmanship that meet the contract requirements, notwithstanding the purview and authority of the consulting engineer, other authorized representative or regulatory authorities having jurisdiction.* The Construction Manager will see to it that the Contractor constructs the project in accordance with the contract documents. The Construction Manager will not approve any materials and workmanship that deviate from the contract documents. If such changes become necessary in the course of the project, the Construction Manager will bring those changes to the attention of the City to resolve with the design consulting engineer. Changes from the contract document must be backed up by RFIs and submittals, or other written documentation allowed in the contract documents. In summary, the job of the Construction Manager is to observe and report to the City. The Construction Manager will then work with the City and its duly authorized consulting engineers to resolve the issues that need to be addressed.
- ▶ *Provide and coordinate inspection for all trades involved in the project included in the contract documents.* The Construction Manager will either inspect the Contractor's work himself, or coordinate with others to inspect certain specialty items of work. For example, there are certain items in electrical and instrumentation the Construction Manager can inspect. However, the assistance of the City's electrical and instrumentation personnel might become necessary. The Construction Manager will work closely with City personnel on those items. The issue of inspection coordination between various parties will be discussed in the pre-construction meeting, and a protocol.
- ▶ *Coordinate compaction and materials testing using City's geotechnical consultant.* Soil compaction and material testing will be conducted by the City's geotechnical consultant. The Construction Manager will coordinate with the geotechnical consultant for such inspections. The Contractor shall provide sufficient advance notice to schedule the geotechnical consultant. This topic will need to be discussed in the pre-construction meeting and appropriate protocols will need to be established based on the contract documents.
- ▶ *Coordinate survey requests using City's survey consultant.* The Contractor will submit survey requests in writing, in advance of the date service is needed. The Construction Manager will coordinate with the City's survey consultant, after making sure the Contractor's request is clear about the data needed by the Contractor, and correct drawings are referenced.
- ▶ *Verify and sign Contractor's daily extra work reports documenting force account (time & materials) work.* The Construction Manager will first make sure the force account work is authorized by the City before this work is done. The Construction Manager will verify the hours expended by the Contractor are documented on a daily basis. The Construction Manager will take pictures of the workers and the equipment working on such force account work in different times of the day. These pictures will provide additional documentation regarding the number of the workers working on the force account work. Daily review of the tickets will be strictly for the labor and equipment. The Contractor shall submit complete documentation at a late date showing material quantities, prices, equipment hours and applicable rates, and other data for the Construction Manager to review and forward to the City to process as an extra work item.
- ▶ *Review and conduct contract change order negotiations with Contractor in cooperation and consultation with the City.* The Construction Manager will review and discuss with the

Contractor any change orders, with full knowledge of the City. The Construction Manager will keep the City fully informed throughout the review process. The Construction Manager will forward the Contractor's final change order submittal to the City with the RE's recommendations. The Construction Manager will not approve a change order. Change orders will be valid only when reviewed and approved by the City.

- ▶ *Review Contractor's payment requests and verify quantities of completed work for progress payments to the Contractor.* The Construction Manager will review the Contractor's progress payment requests and verify the quantities of work completed in the course of the month. The progress payments must have a set cut-off date to be valid. The cut-off date will need to be established at the pre-construction meeting, and in accordance with the contract documents. Any deviations from the cut-off date will need to be backed up with adequate documentation and approved by the City.
- ▶ *Conduct weekly construction progress meetings and distribute typed and formatted meeting minutes to the City's designated representative and all affected attendees.* The Construction Manager will conduct weekly construction progress meetings. Should the progress of the project be such that these meeting to be conducted bi-weekly, or as often as necessary, the Construction Manager will coordinate the frequency of the meeting with the City and proceed accordingly. For example weekly meetings might be necessary at the start of the project and throughout the bulk of construction. Weekly meetings may not be necessary in the final stages of the project. The Construction Manager will work with the City and the Contractor to resolve issues, even between the regular meetings.
- ▶ *Issue written instructions to Contractor regarding routine matters, follow up of verbal instructions and as directed by the City Engineer.* All communications and instructions to the Contractor will be in writing via emails. Verbal discussions will be followed-up in writing through an email. The designated City staff will be copied on all written communications to and from the Contractor. On those written communications that might have contractual impact, the Construction Manager will send a draft of what he intends to write to the Contractor, and give the City staff the opportunity to reflect in the email issues of interest to the City staff.
- ▶ *Conduct start-up and testing of the facility to verify all systems are operating properly.* The contract documents require the Contractor to start-up and test the facilities. The Construction Manager will have the Contractor pre-test the facilities to make sure they are ready for testing and start-up in the presence of the City personnel. The City personnel's time is valuable and the Contractor must make sure the facilities are completely ready for test and start-up. The Construction Manager will notify City of such tests and start-ups only after he is sure the Contractor is ready.
- ▶ *Conduct pre-final inspection and prepare a written punch list documenting incomplete or corrective work.* The Construction Manager will conduct a pre-final inspection, after receiving a written request from the Contractor to that effect. The Construction Manager will conduct the pre-final inspection and make a preliminary punch list of items that need to be corrected or completed. The Construction Manager will repeat this step, if necessary, until such time that the Construction Manager is satisfied that the project is ready for a final inspection with City staff. The City staff will be notified of the pre-final inspections, in case they like to participate and see the progress of the project at the pre-final stage.
- ▶ *Conduct final inspection to verify that all items on the punch list have been completed or corrected and make recommendation to the City concerning acceptance of the project.* The Construction Manager will conduct a final inspection after the Contractor has addressed all items on the pre-final punch list. The final inspection will be coordinated with City staff. The City's project manager can invite others at the City who might be interested in the final

inspections. Once all items on the punch list are corrected to the satisfaction of the City, the Construction Manager will make a recommendation to the City regarding project acceptance.

- ▶ *Verify Contractor's progress on as-built plan preparation monthly.* Verify that the as-built plans submitted by the Contractor are accurate. The Construction Manager will maintain a marked-up set of drawings reflecting any field changes in the project. The Construction Manager will periodically update his marked-up drawings to reflect the changes brought about through RFIs, field orders and through other procedures allowed in the contract documents. The Construction Manager will review the Contractor's as-built plans and compare them against his own marked-up drawings and notes to verify that the Contractor's as-built plans are up to date and accurately reflect all as-built conditions. The Construction Manager will do this review and verification in the course of the project, and at the end of the project.
- ▶ *Confirm the reestablishment of survey monumentation in keeping with Senate Bill 1563 if applicable.* The Construction Manager will make a determination in cooperation with the City's survey consultant to see if this requirement is pertinent to this project. If so, the Construction Manager will follow-up on this requirement. Psomas has survey staff to support and confirm the reestablishment of survey monumentation in keeping with Senate Bill 1563 if required.

Post-Construction Phase

- ▶ *Perform project closeout duties including final organization of project files and submit to City for approval.* The Construction Manager will maintain project files throughout the course of the project. The organization of the files will be discussed with City staff at the beginning of the project. The Construction Manager will submit a list of the files to the City upon the project completion. Should the City wish to make adjustments in the organization of the files, the Construction Manager will address those adjustments to the City's satisfaction. The project files will be submitted to the City both digitally and in paper, where applicable. For example, a paper copy of the submittals will be helpful during construction to verify that the material delivered is in accordance with the approved submittals.

Optional Services

- ▶ *Perform additional inspection services for unforeseen site conditions.* Psomas will perform additional inspection services as needed for completion of the project. This optional task is based on 208 additional inspection hours.
- ▶ *Perform vibration analysis of well pump and engine at Well No. 29.*

Exclusions from Scope of Services

The following items are not included in the Scope of Services

1. Preparation of Record Drawings
2. Preparation of O&M Manuals (Contractor's Responsibility)
3. Training of City Operations Staff for new equipment (Contractor's Responsibility)
4. Assistance During Warranty Period

EXHIBIT B

SCHEDULE OF PAYMENT

EXHIBIT B

**CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES
WEST GARDEN GROVE WELL/BOOSTER PUMPING FACILITY REHABILITATION
PROJECT NO. 7394**

ESTIMATED FEE SCHEDULE / PROPOSAL

PRE CONSTRUCTION PHASE			
TITLE	ESTIMATED HOURS	RATE/HR	AMOUNT
Principal-In-Charge	2	\$195	\$390
Construction Manager/Inspector	80	\$140	\$11,200
Quality Assurance/Design Support	8	\$185	\$1,480
Project Administrator	20	\$75	\$1,500
SUBTOTAL			\$14,570
CONSTRUCTION PHASE			
TITLE	ESTIMATED HOURS	RATE/HR	AMOUNT
Principal-In-Charge	8	\$195	\$1,560
Construction Manager/Inspector	784	\$140	\$109,760
Quality Assurance/Design Support	168	\$185	\$31,080
Specialty Inspector (Well No. 31 Wall)	60	\$165	\$9,900
Project Administrator	80	\$75	\$6,000
SUBTOTAL			\$158,300
PROJECT CLOSEOUT PHASE			
TITLE	ESTIMATED HOURS	RATE/HR	AMOUNT
Principal-In-Charge	2	\$195	\$390
Construction Manager/Inspector	80	\$140	\$11,200
Quality Assurance/Design Support	16	\$185	\$2,960
Project Administrator	20	\$75	\$1,500
SUBTOTAL			\$16,050
REIMBURSABLE EXPENSES			
DESCRIPTION			ALLOWANCE
Reimbursables/Other Direct Costs			\$1,000
SUBTOTAL			\$1,000
ADDITIONAL INSPECTION SERVICES (OPTIONAL)			
TITLE	ESTIMATED HOURS	RATE/HR	AMOUNT
Construction Manager/Inspector	208	\$140	\$29,120
SUBTOTAL			\$29,120
VIBRATION ANALYSIS AT WELL NO. 29 (OPTIONAL)			
TITLE	ESTIMATED HOURS	RATE/HR	AMOUNT
Principal-In-Charge	2	\$195	\$390
Quality Assurance/Design Support	100	\$185	\$18,500
Project Administrator	8	\$75	\$600
Vibration Equipment (Allowance)			\$1,390
SUBTOTAL			\$20,880
TOTAL ESTIMATED FEE:			\$239,920

NOTES:

- The estimated fees are based on the durations noted in the RFP.
- Psomas shall not be responsible for construction means, methods and techniques, or for safety measures, precautions or programs at the project site.
- Construction delays or additional services caused by factors outside the control of Psomas may require additional fees.
- Rates include miscellaneous related costs: vehicle, cell phone, digital camera and standard tools and equipment. All other direct expenses will be billed at cost.
- A shift which commences after 2:00pm or before 4:00am, during any twenty-four hour period, commencing at 12:01am is subject to a twelve and one-half percent (12.5%) differential.

**UNANIMOUS WRITTEN CONSENT
OF THE
BOARD OF DIRECTORS
OF
PSOMAS
a California corporation**

February 28, 2013

THE UNDERSIGNED, being all of the members of the Board of Directors of Psomas, a California corporation (the "Corporation"), hereby adopt the following resolutions without a meeting as of the date set forth above, pursuant to Section 307(b) of the General Corporation Law of California:

RESOLVED that the following, being the Officers of the Corporation, be and hereby are authorized to execute any and all documents required to conduct the business of the Corporation, including, but not limited to contracts, leases and certifications;

IT IS FURTHER RESOLVED that any one signature of the Officers listed herein shall be sufficient to bind the Corporation;

TIMOTHY G. PSOMAS	Chairman Emeritus
BLAKE N. MURILLO	Chairman, Chief Executive Officer
JACOB LIPA	President
LOREN L. SOKOLOW	Chief Financial Officer, Treasurer, Assistant Secretary
DEBRA TILSON LAMBECK	Vice President, Secretary
CRAIG AHRENS	Vice President
ALEJANDRO ANGEL	Vice President
ROSS W. BARKER	Vice President
TEDDY C. BOLDEN, II	Vice President
JOSEPH L. BOYLE	Vice President
BRIAN E. BULLOCK	Vice President
AGUSTIN CHANG	Vice President
HAN CHU	Vice President
MATTHEW D. CLARK	Vice President
MICHAEL J. CREHAN	Vice President
MIKE DALY	Vice President
CURT EDWARDS	Vice President
PAUL J. ENNEKING	Vice President
JEREMY L. EVANS	Vice President
PETER FITZPATRICK	Vice President
HARVEY GOBAS	Vice President
ERNEST GOMEZ	Vice President
CRAIG GOOCH	Vice President
DANNIE B. GREEN	Vice President
ANDREW N. GUST	Vice President
TIMOTHY G. HAYES	Vice President
ROBERT J. IANNARINO	Vice President
BRUCE KIRBY	Vice President
MICHAEL G. KREMER	Vice President
NATALIE KYRIAKOUDIS	Vice President
KARI J. LAUNEN	Vice President
THOMAS C. LODGE	Vice President

Unanimous Written Consent of the Board of Directors of Psomas

February 28, 2013

Page 2

STEVE MARGARONI	Vice President
DAVID McCARTHY	Vice President
DANIEL McCROSKEY	Vice President
PAT McGARRITY	Vice President
THOMAS P. McGOVERN	Vice President
RYAN E. McLEAN	Vice President
STEVE MENDENHALL	Vice President
JOEL B. MILLER	Vice President
DAVID A. MORITZ	Vice President
LESLIE MORTON	Vice President
ROBERT C. OLSON	Vice President
RICH RADOYCIS	Vice President
SCOTT ROCKE	Vice President
MATTHEW J. ROWE	Vice President
CLIFF SIMENTAL	Vice President
WAYNE A. SMITH	Vice President
KENNETH D. STRAM	Vice President
MICHAEL D. SWAN	Vice President
ROBERT J. TALAFUS	Vice President
JOHN R. THORNTON	Vice President
REUBEN TOLENTINO	Vice President
SEAN P. VARGAS	Vice President
ANISSA VOYIATZES	Vice President
DONALD LEE WHITELEY	Vice President
LENI ZARATE	Vice President

This Unanimous Written Consent shall be filed with the Minutes of the proceedings of the Board of Directors, and the actions taken hereby shall have the same force and effect as if taken at a meeting duly called and held.

Blake Murillo



Jacob Lipa



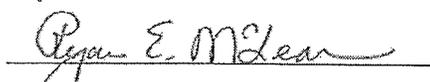
Steve Margaroni



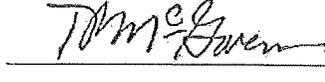
Gary H. Hunt



Ryan McLean



Tom McGovern



Paul J. Banneking