



# **CITY OF LAGUNA WOODS**

## **REQUEST FOR PROPOSAL FOR AS NEEDED CITY ENGINEERING SERVICES**

**Released on Tuesday, January 31, 2012  
Proposals due by Wednesday, February 29, 2012 at 3 p.m. (PST)**

**CITY OF LAGUNA WOODS**  
**REQUEST FOR PROPOSAL**  
**FOR**  
**AS NEEDED**  
**CITY ENGINEERING SERVICES**

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**I. CITY OF LAGUNA WOODS**

On March 24, 1999, the City of Laguna Woods was incorporated as Orange County's 32<sup>nd</sup> city. It is a General Law city and operates with a City Council-City Manager form of government. In addition to being one of California's safest cities, Laguna Woods is unique in that the average age of its approximately 18,000 residents is 78.

Laguna Woods occupies roughly four square miles of land that was once a part of South Orange County's expansive Moulton Ranch. Prior to the 1960s, dry farming and cattle grazing dominated the area, with a few scattered ranch dwellings and barns.

Today, Laguna Woods is bordered by County unincorporated areas and the cities of Aliso Viejo, Irvine, Laguna Beach, and Laguna Hills. It includes the private gated community of Laguna Woods Village (formerly Leisure World Laguna Hills), several other senior-oriented residential developments, commercial centers, and a variety of community facilities and open space areas. Laguna Woods' western-most boundary is 3.2 miles from the Pacific Ocean.

The City has nine (9) full time staff and several part time staff. Laguna Woods is a contract city. The City Manager is hired by the City Council and oversees all day to day operations. The City has six (6) departments: City Council, Administrative Services, Community Development, Community Services, Public Safety and Public Works. Police services are provided through a contract with the Orange County Sheriff's Department and fire protection services are provided through the Orange County Fire Authority. The City contracts for services that include City Attorney, City Engineering, Building Inspection and Plan Check, Development Planning, Landscape Maintenance, Animal Control Services, and Street and Traffic Signal Maintenance. Laguna Woods currently owns its City Hall building and adjacent parking and three parks: Ridge Route Linear Park that lies within unused street right of way and includes a dog park, City Centre Park situated on land given to the City off of Moulton Parkway, and Woods End Wilderness Park, which is leased to Orange County Parks, a department of the County of Orange. The City also owns landscaped medians and parkways on El Toro Road, Moulton Parkway and Santa Maria Avenue.

City Website: [www.lagunawoodscity.org](http://www.lagunawoodscity.org)

## II. REQUEST FOR PROPOSAL

### Overview of the Request for Proposal

Through this Request for Proposal (RFP), the City of Laguna Woods (City) declares its intention to solicit competitive proposals from qualified firms to provide City engineering services on an **as needed** basis. Proposals must conform to the guidelines and information outlined in this RFP and be submitted so that they are received by the City **no later than Wednesday, February 29, 2012 at 3 p.m. Pacific Standard Time (PST)**.

### Scope of Work

The City is soliciting competitive proposals from qualified firms to provide City engineering services on an **as needed** basis. Proposals must be submitted for the entirety of the Scope of Work outlined below. Partial proposals will not be considered.

### *Term of Agreement*

The term of the agreement would begin on the date of execution and end on June 30, 2015 with the possibility of two (2) fiscal year extensions. Extensions will only be considered if the firm agrees to maintain the rates submitted in its original proposal for the duration of each extension. Maintaining rates alone, however, will not guarantee an extension.

### *Staffing Requirements*

Note: This RFP is for **as needed** services. The agreement will not state, convey, imply or infer a specific, minimum or expected amount of work or compensation, nor is this RFP intended to state, convey, imply or infer a specific, minimum or expected amount of work or compensation.

Work includes but is not limited to project management, civil design, development project review, surveying, public works inspection and construction management services with the objective of providing the City with comprehensive, as needed engineering services as defined by City staff.

### City Engineer

The successful engineering firm shall provide an experienced registered civil engineer, licensed in the State of California, to act in the capacity of the City Engineer for the City of Laguna Woods, with the approval of the Public Works Director. The individual assigned to this task will be officially designated the City Engineer by the City Council and will report to the Public Works Director. As a representative of the City, the City Engineer shall be diplomatic, responsive, creative, professional and accountable for his/her interactions with the public, staff, the City Council and other elected officials. The City Engineer will be the principal contact and responsible party for the contract services described under this scope. The individual assigned to this task must have a minimum of 5 years experience serving as the City Engineer for a city or county in the State of California. It is expected that the assigned City Engineer shall remain the same individual during the term of the contract, however, the Public Works Director may request a change in personnel at his/her discretion with the appointment of different personnel requiring approval of the Public Works Director. The

Public Works Director's approval is also required for appointment of an interim City Engineer, with equivalent qualifications as the permanently assigned City Engineer, if the incumbent leaves the firm or during periods of necessary leaves of absences.

### Senior/Associate/Assistant Civil Engineers

The successful engineering firm shall include professional civil engineers at the Senior and Associate levels who are registered civil engineers, licensed in the State of California, and at the Assistant level who have, at a minimum, four (4) years of engineering school, passed the Engineer In Training (EIT) exam, and a minimum one year of experience. The Senior, Associate and Assistant civil engineers will perform work under the general supervision of the City Engineer and have knowledge of:

- Principles and practices of civil engineering, other engineering disciplines and public works construction used in the municipal engineering field.
- Developing, reviewing and modifying civil engineering plans, designs and specifications.
- Modern methods and techniques used in the design and construction of a wide variety of municipal projects.
- Project management experience in a broad range of municipal public works projects.
- Modern developments, current literature and sources of information regarding civil and municipal engineering.
- Applicable local, state and federal laws, codes and regulations relevant to design and construction of municipal facilities.
- Principles of supervision, training and performance evaluation.
- Technical report writing.
- Computer software, including AutoCAD, GIS applications (e.g., ArcGIS), Microsoft Word, Excel, PowerPoint and Outlook software.

### Public Works Inspectors

The successful engineering firm shall include professional inspectors with a minimum of three (3) years of experience in inspecting municipal facilities to identify the need for asphalt, cleaning, signage, storm drain, sidewalk and similar right of way maintenance.

### Stormwater Pollution Prevention Plan (SWPPP) Professional

The successful engineering firm shall include professionals possessing certificates qualifying them as Qualified SWPPP Developers (QSD) and Qualified SWPPP Practitioners (QSP)

### ***Service Requirements (all services are as needed at the discretion of the City)***

General Municipal Engineering: Consultant will provide specific services to supplement the full-time staff of the City's Public Works Department. The services to be provided are enumerated below and are included within the areas of development land use application processing, permitting, contract management, public inquiries, capital improvement projects, public works inspection, general engineering, fund tracking, grant applications, and other responsibilities as required.

### Funding/Grants/Budget

- Assist in the identifying, procuring and preparing of various grant applications.
- Ensure compliance with funding agencies and their requirements, including the Orange County Transportation Authority (OCTA) and Measure M and M2, Caltrans and federal agencies.
- Prepare Measure M2 mid-year project review.
- Assist in the Capital Improvement Program (CIP) project budget preparation, analyze City's capital needs and prepare short and long-term CIP recommendations.
- Assist in the tracking and accounting of project funds, including revenue sources, expenditures, and project account shortfalls/surpluses.

### Engineering Design and Construction

- Prepare plans, specifications, engineering design calculations, and cost estimates.
- Prepare and secure environmental permits and clearances for CIP projects.
- Work with City staff to obtain easements from individuals or groups as needed.
- Advertise and bid for the construction of CIP projects and process contract execution and submittal approvals.
- Perform project and construction management activities for a variety of projects.
- Coordinate design and construction activities with City departments, other agencies, citizens, and regulatory agencies.
- Negotiate and offer recommendations to City staff regarding change orders and consultant contracts.
- Prepare and process Requests for Proposals (RFPs) and help to conduct consultant or contractor selection processes per City policy.
- Assist in consultant contract management where no conflicts of interest exist.
- Manage a variety of challenging multidisciplinary projects from budget inception through construction.
- Ensure delivery of projects within schedule and budget and coordinate project completion, including City Council reports and subsequent release of retention and bonds.
- Prepare and maintain the annual slurry seal plan and specifications.

### Development Review

- Review and process engineering-related permits such as encroachment, grading, landscaping, construction & demolition, and others that are submitted through the Planning Counter.
- Perform inspections and document engineering-related permitted projects, including final inspection and sign-off on project completion.
- Perform additional functions, including, but not limited to, the preparation of general correspondence and staff reports, and coordination with developers, engineers, staff, and the general public related to the engineering review of private developments.
- Assist Community Development staff in planning application review and plan check.
- Coordinate plan checking efforts with third-party consultants.

- Calculate and monitor fees/deposits for permits.
- Review, check and make recommendations regarding land use applications within eight (8) working days of receipt.
- Recommend conditions of approval for development, including off-site improvements and financial obligations.
- Establish bond amounts, determine financial obligations and other development fees within the proper sequence of development reviews.
- Recommend and process bond releases.
- Observe construction of improvements by private developers and make recommendations regarding completion and acceptance of the work.

### Public Right of Way Maintenance

- Assist in oversight of work by contractors performing landscaping, traffic signal maintenance and street maintenance, including street sweeping, striping, pavement, sidewalk and sign repair.
- Provide public works inspection or contract management outside of regular working hours.
- Recommend right of way repairs.
- Assist City staff in tactfully responding to citizen complaints and inquiries in accordance with City policy, as requested, including investigating and resolving complaints related to street maintenance.
- Issue stop notices or notices to correct work that is in progress that does not have an approved permit, in coordination with City staff.
- Assist in the development of cost estimates.
- Assist in the development and implementation of procedures and safety guidelines; including work processes.
- Investigate claims against the City and work with staff to gather information
- Coordinate and prioritize maintenance activities with other City departments, divisions and with outside agencies.
- Participate in special City events as required.
- Log reports and keep records in an organized fashion in accordance with Department filing procedures.
- Survey streets for asphalt, cleaning, signage, storm drain and sidewalk maintenance.
- Report hazardous conditions to the Public Works Director. Respond to emergencies as directed by Public Works staff.
- Conduct constructability reviews for street improvement projects.
- Assist in budget preparation and administration, including staff reports, technical memorandums, and Microsoft Excel costs analyses.
- Prepare technical memorandums and/or staff reports that offer clear recommendations regarding street maintenance issues such as contract status, new technology, field issues, etc.

### Administration/Miscellaneous

- Provide information to City staff on City policies and procedures related to Public Works.

- Assist and implement as-needed emergency work as directed by City staff.
- Prepare City Council staff reports related to a variety of public works topics.
- Attend meetings with staff, City Council members, residents, business and agency representatives.
- Coordinate with property owners and residents as directed by City staff.
- Coordinate with other agencies, businesses, residents and utility companies on engineering matters.
- Prepare and submit, upon approval of City staff, annual federal DBE Program updates.
- Provide traffic engineering support as needed to the City's Traffic Engineer.
- Prepare CAD exhibits, public outreach material, complex Microsoft Excel spreadsheets, Microsoft Word documents, Microsoft PowerPoint presentations, as directed, for a variety of engineering and public works topics.
- Assist with the City's Pavement Management Program (Micropaver), including consultant oversight.
- Maintain municipal engineering records and maps at City Hall.
- Provide other engineering support services, as needed.
- Process public records requests within eight (8) business days in coordination with the City Clerk or Deputy City Clerk and other City staff.

***Billing and Reporting***

No later than the 15<sup>th</sup> of each month, the firm shall furnish to the City an invoice for all building inspection activities for the preceding month in form sufficient to the City. Each invoice shall include a report detailing the work performed throughout the month, the project name and number, if assigned, and the name of the employee performing the work.

**RFP Schedule**

<b>Activity</b>	<b>Date/Time*</b>
Release of RFP	Tuesday, January 31, 2012
Deadline to submit written questions	Tuesday, February 14, 2012 at 3 p.m.
Responses to written questions available from the City Clerk's Office	Wednesday, February 20, 2012
Deadline to submit proposals	Wednesday, February 29, 2012 at 3 p.m.
The City will evaluate proposals and make a determination regarding next steps within thirty (30) business days of the deadline to submit proposals.	

\* Dates are subject to change at the City's discretion. All times are Pacific Standard Time.

## **Rights of the City**

The City's rights include, but are not limited to, the following:

- Issue addenda to the RFP, including extending or otherwise revising the deadline for submittals;
- Request clarifications and/or additional information from any proposer at any point in the procurement process;
- Execute an agreement or agreements with one or more proposers, on the basis of the original proposal, any additions to proposal submissions, and any negotiations between the City and proposers;
- Reject any and all proposals, and accept or reject all or any part of any proposal;
- Accept and negotiate, with one or more proposers, any combination of services; which services and combinations thereof shall be chosen by the City at its sole discretion;
- Discontinue its negotiations after commencing negotiations with a proposer, if progress is unsatisfactory in the judgment of the City, and commence discussions with another qualified proposer; and
- Reissue or modify the RFP.

## **RFP Questions**

Questions regarding this RFP will only be accepted in writing. **Do not call or contact City staff.** Questions must be addressed and submitted to:

Addressed to:

Douglas C. Reilly  
Assistant City Manager  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637

Submitted to:

Yolie Trippy  
Deputy City Clerk  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637  
YTrippy@lagunawoodscity.org

**Questions must be received by the City no later than Tuesday, February 14, 2012 at 3 p.m. Pacific Standard Time (PST).** Postmarks will not be accepted as proof of receipt. All questions received after the aforementioned time and date will be discarded, at the City's sole discretion.

Written responses to all questions received will be made available by the City Clerk's Office on Monday, February 20, 2012. The City Clerk's Office may be reached at (949) 639-0500. Follow-up information may be provided, at the City's sole discretion.

## **Proposal Submittal**

Proposals must be addressed and submitted to:

Addressed to:

Douglas C. Reilly  
Assistant City Manager  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637

Submitted to:

Yolie Trippy  
Deputy City Clerk  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637

**Proposals must be submitted so that they are received by the City no later than Wednesday, February 29 at 3 p.m. Pacific Standard Time (PST).** Postmarks will not be accepted as proof of receipt. All responses received after the aforementioned time and date will be returned unopened.

## **Proposal Format**

Proposals must conform to the following formatting standards. Failure to conform is grounds for immediate disqualification.

### *Number of Submittals*

1. Seven (7) printed and bound copies of the proposal are required. One (1) of the proposals must bear an original signature and be marked “original proposal.”
2. An electronic copy of the proposal, in a single PDF file, is required on two (2) labeled CDs.

### *General Notes*

1. Proposal must be straightforward, clear, concise, and provide “layman” explanations of technical terms that are used. Use of graphs, charts, and illustrations is encouraged.
2. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and providing a complete description of the proposal. Proposals that lack technical competence, appear unrealistic in terms of commitments or offers, or indicate failure to comprehend this RFP will be disqualified.
3. Submission of a proposal constitutes acknowledgment and acceptance of the terms and conditions of this RFP unless exception to particular terms or conditions is expressed, in writing, in the proposal. This RFP is not to be construed as a contract of any kind.

### *Components*

1. Transmittal Letter

The transmittal letter must not exceed three (3) pages and must summarize key elements of the proposal. The letter must be signed by an officer of the responding firm who has the authority to bind the firm to proposals and execute agreements. The letter must state

that the proposal prices will be valid for a period of at least 180 days. Indicate the address and telephone number of the firm's office located nearest to Laguna Woods, California and the office from which the services will be managed. Explicitly identify any exception the firm has with the Scope of Work, agreement, insurance requirements or other matters. If no exception is claimed, the transmittal letter must include a statement to that effect.

2. Scope of Work Summary Section

The Scope of Work Summary Section must describe the firm's understanding of the City, the Scope of Work, and the objectives to be accomplished.

3. Methodology and Quality Control Section

Provide a description of the approach and methodology that would be used to accomplish the Scope of Work. The Methodology and Quality Control Section must include:

1) An implementation plan that describes in detail (i) the methods, including controls, by which your firm manages the quality of work of the type sought by this RFP; (ii) the firm's safety program; and (iii) other management or implementation strategies or techniques that the firm intends to employ in carrying out the Scope of Work, including detailed description of when Senior/Associate/Assistant Engineers will be utilized to maximize cost effectiveness.

2) An explanation of the efforts that the firm would undertake to maintain effective communication with the City.

4. Personnel Section

Provide a list of the individual(s) who would be assigned to provide services and indicate the functions that each would perform. Include a resume for each designated individual. Upon award and during the term of the agreement, if the firm wishes to assign different personnel, their names and resumes must be submitted to the City for prior approval. The City will exercise sole discretion in approving or denying such requests.

5. Qualifications Section

Describe the qualifications of the firm and key personnel, including related experience within the past five (5) years to demonstrate competence in carrying out the Scope of Work. The Qualifications Section must include:

1) A summary of the firm's demonstrated competence, including length of time that the firm has provided the services being requested in this RFP.

2) At least three (3) local references that receive or received similar services from the firm within the past five (5) years. **The City of Laguna Woods reserves the right to contact any of the references provided.** Reference information must include:

- ◆ Client name
- ◆ Scope of work
- ◆ Start and end dates of service

- ◆ Client contract manager name, telephone number, and e-mail address

6. Proposer Pricing Form

Complete Appendix B, "Proposer Pricing Form."

## **Proposal Evaluation & Selection Criteria**

All proposals will be reviewed by City staff. Pricing will be an important criterion; however, the City reserves the right to select a firm that presents the best qualifications, but not necessarily at the lowest price. The City also reserves the right to request further information and interview the top-ranked firm(s). The City may use some or all of the following criteria in its evaluation and comparison of proposals. The criteria listed are not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance.

- ◆ Pricing
- ◆ Methodology and quality control
- ◆ Qualifications
- ◆ Ability to provide continuity of personnel
- ◆ Ability to provide timely services
- ◆ Completeness of the proposal
- ◆ References

## **Standard Terms and Conditions**

### *Cost and Disclosure of Proposals*

The cost of proposing on this RFP is the sole responsibility of the firm. The City shall incur no cost or liability. Submitted proposals become the property of the City and public records. The City cannot protect proprietary data submitted in proposals.

### *Contract Negotiations*

Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing firms unless an agreement is reached. If negotiations cannot be concluded successfully within seven (7) business days, the City may negotiate a contract with the next highest ranked firm or withdraw the RFP.

### *Insurance Requirements*

The City requires that firms have approved Certificates of Insurance on-file with the City when the agreement is executed. Failure to furnish the required certificates within seven (7) business days of notification of award of the agreement will result in disqualification.

### *Financial Information*

The City is concerned with the firm's financial capability to perform and, therefore, may require sufficient information to allow for an evaluation of the firm's financial capabilities.

### *Withdrawal of Proposal*

Proposals submitted in advance of the deadline may be withdrawn by written request of the firm. Withdrawal of a proposal will not prejudice the right of the firm to submit a new proposal, provided there is time to do so. Requests must be delivered prior to the deadline to submit proposals:

Addressed to:

Douglas C. Reilly  
Assistant City Manager  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637

Submitted to:

Yolie Trippy  
Deputy City Clerk  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637

### *Appendices*

Please review the sample agreement (including insurance requirements) before responding to this RFP. Proposals submitted in response to this RFP must indicate if the firm is unwilling or unable to execute the agreement as drafted and comply with insurance requirements. The City will consider this in determining responsiveness to this RFP.

- ◆ APPENDIX A: SAMPLE AGREEMENT AND INSURANCE REQUIREMENTS  
(15 pages)
- ◆ APPENDIX B: PROPOSER PRICING FORM  
(1 page)

**APPENDIX A  
AGREEMENT FOR CONSULTANT SERVICES  
BETWEEN THE  
CITY OF LAGUNA WOODS  
AND**

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This AGREEMENT FOR CONSULTANT SERVICES ("AGREEMENT"), is made and entered into this \_\_\_\_ day of March 2012, by and among the City of Laguna Woods, a California municipal corporation ("CITY") and \_\_\_\_\_, a California corporation /limited liability company ("CONSULTANT").

In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**SECTION 1. TERM OF AGREEMENT.**

Subject to the provisions of SECTION 19 "TERMINATION OF AGREEMENT" of this AGREEMENT, the term of this AGREEMENT shall be for a period beginning on \_\_\_\_\_ and ending at 11:59 p.m. on June 30, 2015.

**SECTION 2. SCOPE OF SERVICES.**

CONSULTANT agrees to perform the services set forth in EXHIBIT "A" "SCOPE OF SERVICES" and made a part of this AGREEMENT. All work to be performed by CONSULTANT shall be coordinated with, and approved by City Manager of CITY or his or her designee. CONTRACTOR shall not begin work until authorized by the City Manager of CITY or his or her designee to proceed.

**SECTION 3. ADDITIONAL SERVICES.**

CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to or outside of those set forth in this AGREEMENT or listed in EXHIBIT "A" "SCOPE OF SERVICES", unless such additional services are authorized in advance and in writing by the City Council or the City Manager of CITY or his or her designee. CONSULTANT shall be compensated for any such additional services only in the amounts and in the manner agreed to by the City Council or City Manager of CITY or his or her designee.

**SECTION 4. COMPENSATION AND METHOD OF PAYMENT.**

(a) Subject to any limitations set forth in this AGREEMENT, CITY agrees to pay CONSULTANT the amounts specified in EXHIBIT "B" "COMPENSATION" and made a part of this AGREEMENT. CONSULTANT shall perform work only as requested by CITY. This AGREEMENT does not state, convey, imply or infer a specific, minimum or expected

amount of work. This AGREEMENT does not state, convey, imply or infer a specific, minimum or expected amount of compensation.

(b) No later than the 15<sup>th</sup> of each month CONSULTANT shall furnish to CITY an **original** invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the categories required by CITY, which are subject to change at the discretion of CITY. CITY shall independently review each invoice submitted by the CONSULTANT to determine whether the work performed and expenses incurred are in compliance with the provisions of this AGREEMENT. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event that any charges or expenses are disputed by CITY, the original invoice shall be returned by CITY to CONSULTANT for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by CONSULTANT which are disputed by CITY, CITY will use its best efforts to cause CONSULTANT to be paid within thirty (30) days of receipt of CONSULTANT's invoice.

(d) Payment to CONSULTANT for work performed pursuant to this AGREEMENT shall not be deemed to waive any defects in work performed by CONSULTANT, nor to constitute any waiver of any type of relief or remedy, legal or equitable, arising out of any breach or nonperformance of any aspect of the AGREEMENT by CONTRACTOR.

## **SECTION 5. INSPECTION AND FINAL ACCEPTANCE.**

CITY may inspect and accept or reject any of CONSULTANT's work under this AGREEMENT, either during performance or when completed. CITY shall reject or finally accept CONSULTANT's work in its discretion within sixty (60) days after submitted to CITY. Any rejection of work by CITY shall be by written explanation. Acceptance of any of CONSULTANT's work by CITY shall not constitute a waiver of any of the provisions of this AGREEMENT including, but not limited to, sections 15 and 16, pertaining to indemnification and insurance, respectively.

## **SECTION 6. OWNERSHIP OF DOCUMENTS.**

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by CONSULTANT in the course of providing any services pursuant to this AGREEMENT, or copies of such items that the City may deem appropriate, shall become the sole property of CITY and may be used, reused or otherwise disposed of by CITY without the permission of the CONSULTANT. Upon completion, expiration or termination of this AGREEMENT, CONSULTANT shall turn over to CITY all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents, or copies of such items that the City may deem appropriate, notwithstanding any billing or compensation disputes that may then exist between CITY and CONSULTANT.

## **SECTION 7. CONSULTANT'S BOOKS AND RECORDS.**

(a) CONSULTANT shall maintain any and all documents and records demonstrating or relating to CONSULTANT's performance of services pursuant to this AGREEMENT. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to CITY pursuant to this AGREEMENT. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by CONSULTANT pursuant to this AGREEMENT. Any and all such documents or records shall be maintained for three years from the date of execution of this AGREEMENT and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon written request by CITY or its designated representative. Copies of such documents or records shall be provided directly to the CITY for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

(c) Where CITY has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of CONSULTANT's business, CITY may, by written request, require that custody of such documents or records be given to the requesting party and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to CITY, as well as to its successors-in-interest and authorized representatives.

(d) CONSULTANT shall prepare and submit to CITY reports concerning the performance of the work in this AGREEMENT as CITY shall require.

## **SECTION 8. STATUS OF CONSULTANT.**

(a) CONSULTANT is and shall at all times remain a wholly independent contractor and not an officer, official, employee or agent of CITY. CONSULTANT shall have no authority to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against CITY, whether by contract or otherwise, unless such authority is expressly conferred under this AGREEMENT or is otherwise expressly conferred in writing or otherwise directed by CITY.

(b) 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 elected or appointed boards, officers, officials, employees or agents of CITY, shall have control over the conduct of CONSULTANT or any of CONSULTANT's

officers, officials, employees or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that CONSULTANT or any of CONSULTANT's officers, officials, employees or agents is in any manner officials, officers, employees or agents of CITY.

(c) Neither CONSULTANT, nor any of CONSULTANT's officers, officials, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to CITY'S employees. CONSULTANT expressly waives any claim CONSULTANT may have to any such rights.

(d) This AGREEMENT shall in no way prohibit the CITY from entering into other agreements or contracts, hiring staff or making other such arrangements with other persons and/or entities relative to the services set forth in EXHIBIT "A" "SCOPE OF SERVICES".

## **SECTION 9. STANDARD OF PERFORMANCE.**

CONSULTANT represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this AGREEMENT in a thorough, competent and professional manner. CONSULTANT shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this AGREEMENT, CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of CONSULTANT under this AGREEMENT.

## **SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.**

CONSULTANT shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this AGREEMENT. CONSULTANT shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this AGREEMENT. Neither CITY, nor any elected or appointed boards, officers, officials, employees or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

## **SECTION 11. NONDISCRIMINATION.**

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this AGREEMENT.

## **SECTION 12. UNAUTHORIZED ALIENS.**

CONSULTANT hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in

connection therewith, shall not employ unauthorized aliens as defined therein. Should CONSULTANT so employ such unauthorized aliens for the performance of work and/or services covered by this AGREEMENT, and should the any liability or sanctions be imposed against CITY for such use of unauthorized aliens, CONSULTANT hereby agrees to and shall reimburse CITY for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by CITY.

### **SECTION 13. CONFLICTS OF INTEREST.**

(a) CONSULTANT covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of CITY or which would in any way hinder CONSULTANT's performance of services under this AGREEMENT. CONSULTANT further covenants that in the performance of this AGREEMENT, no person having any such interest shall be employed by it as an officer, official, employee, agent or subcontractor without the express written consent of the City Manager of CITY or his or her designee. CONSULTANT agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY in the performance of this AGREEMENT.

(b) CITY understands and acknowledges that CONSULTANT is, as of the date of execution of this AGREEMENT, independently involved in the performance of non-related services for other governmental agencies and private parties. CONSULTANT is unaware of any stated position of CITY relative to such projects. Any future position of CITY on such projects shall not be considered a conflict of interest for purposes of this section.

### **SECTION 14. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.**

(a) All information gained or work product produced by CONSULTANT in performance of this AGREEMENT shall be considered confidential, unless such information is in the public domain or already known to CONSULTANT. CONSULTANT shall not release or disclose any such information or work product to persons or entities other than CITY without prior written authorization from the City Manager of CITY or his or her designee, except as may be required by law.

(b) CONSULTANT, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager of CITY or his or her designee or unless requested by the City Attorney of CITY, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this AGREEMENT. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives CITY notice of such court order or subpoena.

(c) If CONSULTANT, or any officer, employee, agent or subcontractor of CONSULTANT, provides any information or work product in violation of this AGREEMENT, then CITY shall have the right to reimbursement and indemnity from CONSULTANT for any

damages, costs and fees, including attorneys fees, caused by or incurred as a result of CONSULTANT's conduct.

(d) CONSULTANT shall promptly notify CITY should CONSULTANT, its officers, officials, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this AGREEMENT and the work performed thereunder. CITY retains the right, but has no obligation, to represent CONSULTANT or be present at any deposition, hearing or similar proceeding. CONSULTANT agrees to cooperate fully with CITY and to provide CITY with the opportunity to review any response to discovery requests provided by CONSULTANT. However, this right to review any such response does not imply or mean the right by CITY to control, direct, or rewrite said response.

## **SECTION 15. INDEMNIFICATION.**

(a) CITY and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "INDEMNITEES") shall have no liability to CONSULTANT or any other person for, and CONSULTANT shall indemnify, defend and hold harmless INDEMNITEES from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "CLAIMS"), which INDEMNITEES may suffer or incur or to which INDEMNITEES may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of the CONSULTANT's performance of or failure to perform any services under this AGREEMENT or by the negligent or willful acts or omissions of CONSULTANT, its agents, officers, directors, subcontractors or employees, committed in performing any of the services under this AGREEMENT.

(b) If any action or proceeding is brought against INDEMNITEES by reason of any of the matters against which CONSULTANT has agreed to indemnify INDEMNITEES as provided above, CONSULTANT, upon notice from CITY, shall defend INDEMNITEES at CONSULTANT's expense by counsel acceptable to CITY, such acceptance not to be unreasonably withheld. INDEMNITEES need not have first paid for any of the matters to which INDEMNITEES are entitled to indemnification in order to be so indemnified. The insurance required to be maintained by CONSULTANT under Section 16 shall ensure CONSULTANT's obligations under this section, but the limits of such insurance shall not limit the liability of CONSULTANT hereunder. The provisions of this section shall survive the expiration or earlier termination of this AGREEMENT.

(c) The provisions of this section do not apply to CLAIMS occurring as a result of the CITY's sole negligence or willful acts or omissions.

## **SECTION 16. INSURANCE.**

CONSULTANT agrees to obtain and maintain in full force and effect during the term of this AGREEMENT the insurance policies set forth in EXHIBIT "C" "INSURANCE" and made a part of this AGREEMENT. All insurance policies shall be subject to approval by CITY as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager of CITY or his or her designee. CONSULTANT agrees to provide CITY with copies of required policies upon request.

## **SECTION 17. ASSIGNMENT.**

The expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CITY has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon CONSULTANT under this AGREEMENT. In recognition of that interest, CONSULTANT shall not assign or transfer this Agreement or any portion of this AGREEMENT or the performance of any of CONSULTANT's duties or obligations under this AGREEMENT without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this AGREEMENT entitling CITY to any and all remedies at law or in equity, including summary termination of this AGREEMENT. CITY acknowledges, however, that CONSULTANT, in the performance of its duties pursuant to this AGREEMENT, may utilize subcontractors.

## **SECTION 18. CONTINUITY OF PERSONNEL.**

CONSULTANT shall make every reasonable effort to maintain the stability and continuity of CONSULTANT's staff assigned to perform the services required under this AGREEMENT. CONSULTANT shall receive approval from CITY of any changes in CONSULTANT's staff assigned to perform the services required under this AGREEMENT, prior to any such performance.

## **SECTION 19. TERMINATION OF AGREEMENT.**

(a) CITY may terminate this AGREEMENT, with or without cause, at any time by giving thirty (30) days written notice of termination to CONSULTANT. In the event such notice is given, CONSULTANT shall cease immediately all work in progress.

(b) CONSULTANT may terminate this AGREEMENT at any time upon sixty (60) days written notice of termination to CITY.

(c) If either CONSULTANT or CITY fails to perform any material obligation under this AGREEMENT, then, in addition to any other remedies, either CONSULTANT, or CITY may terminate this AGREEMENT immediately upon written notice.

(d) Upon termination of this AGREEMENT by either CONSULTANT or CITY, all property belonging exclusively to CITY which is in CONSULTANT's possession shall be

returned to CITY immediately upon demand by CITY, notwithstanding any billing disputes that may then exist under this AGREEMENT. CONSULTANT shall furnish to CITY a final invoice for work performed and expenses incurred by CONSULTANT, prepared as set forth in SECTION 4 of this AGREEMENT. This final invoice shall be reviewed and paid in the same manner as set forth in SECTION 4 of this AGREEMENT.

**SECTION 20. DEFAULT.**

In the event that CONSULTANT is in default under the terms of this AGREEMENT, the CITY shall not have any obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and may terminate this AGREEMENT immediately by written notice to the CONSULTANT.

**SECTION 21. EXCUSABLE DELAYS.**

CONSULTANT shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of CONSULTANT. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of CITY, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this AGREEMENT shall be equitably adjusted for any delays due to such causes.

**SECTION 22. COOPERATION BY CITY.**

All public information, data, reports, records, and maps as are existing and available to CITY as public records, and which are necessary for carrying out the work as outlined in the EXHIBIT "A" "SCOPE OF SERVICES", shall be furnished to CONSULTANT in every reasonable way to facilitate, without undue delay, the work to be performed under this AGREEMENT.

**SECTION 23. NOTICES.**

All notices required or permitted to be given under this AGREEMENT shall be in writing and shall be personally delivered, or sent by telecopy or certified mail, postage prepaid and return receipt requested, addressed as follows:

To CITY: City of Laguna Woods  
Attn: City Manager  
24264 El Toro Road  
Laguna Woods, CA 92637

To CONSULTANT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

**SECTION 24. AUTHORITY TO EXECUTE.**

The person or persons executing this AGREEMENT on behalf of CONSULTANT represents and warrants that he/she/they has/have the authority to so execute this AGREEMENT and to bind CONSULTANT to the performance of its obligations hereunder.

**SECTION 25. BINDING EFFECT.**

This AGREEMENT shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

**SECTION 26. MODIFICATION OF AGREEMENT.**

No amendment to or modification of this AGREEMENT shall be valid unless made in writing and approved by the CONSULTANT and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

**SECTION 27. WAIVER.**

Waiver by any party to this AGREEMENT of any term, condition, or covenant of this AGREEMENT shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this AGREEMENT shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this AGREEMENT. Acceptance by CITY of any work or services by CONSULTANT shall not constitute a waiver of any of the provisions of this AGREEMENT.

**SECTION 28. LAW TO GOVERN; VENUE.**

This AGREEMENT shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Orange. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the District of California in which the City is located.

**SECTION 29. ATTORNEYS FEES, COSTS AND EXPENSES.**

In the event litigation or other proceeding is required to enforce or interpret any provision of this AGREEMENT, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other

relief to which it may be entitled.

**SECTION 30. ENTIRE AGREEMENT.**

This AGREEMENT, including the attached EXHIBITS "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between CONSULTANT and CITY prior to the execution of this AGREEMENT. No statements, representations or other agreements, whether oral or written, made by any party which is not embodied herein shall be valid and binding. No amendment to this AGREEMENT shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

**SECTION 31. SEVERABILITY.**

If an term, condition or covenant of this AGREEMENT is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall not be affected thereby and the AGREEMENT shall be read and construed without the invalid, void or unenforceable provision(s).

**IN WITNESS WHEREOF**, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

**CITY OF LAGUNA WOODS:**

By \_\_\_\_\_  
Leslie A. Keane, City Manager

\_\_\_\_\_  
Date

**CONSULTANT:**

By \_\_\_\_\_

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Cosgrove, City Attorney

\_\_\_\_\_  
Date

**EXHIBIT “A”**  
**SCOPE OF SERVICES**

**EXHIBIT "B"**  
**COMPENSATION**

<b>SERVICE</b>	<b>HOURLY RATES</b>

- Compensation will be for actual hours worked only.
- Rates are not subject to minimums or maximums.
- Rates are all inclusive. No additional fees will be charged.
- Rates are billable in fifteen (15) minute increments.
- Rates will not increase for the term of this AGREEMENT, including any extensions.

**EXHIBIT "C"**  
**INSURANCE**

A. Insurance Requirements. CONSULTANT shall provide and maintain insurance, acceptable to the City Manager of CITY or his or her designee or City Counsel, in full force and effect throughout the term of this AGREEMENT, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. CONSULTANT shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

(1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

(2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of CITY.

(3) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the CONSULTANT and all risks to such persons under this AGREEMENT.

(4) Errors and omissions liability insurance appropriate to the CONSULTANT's profession.

2. Minimum Limits of Insurance. CONSULTANT shall maintain limits of insurance no less than:

(1) General Liability: \$1,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregate for bodily injury, personal injury and property damage.

(2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

B. Other Provisions. Insurance policies required by this AGREEMENT shall contain the following provisions:

1. All Policies. Each insurance policy required by this paragraph 15 shall be endorsed and state that the coverage shall not be suspended, voided, cancelled by the insurer or either party to this AGREEMENT, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City Manager of CITY or his or her designee.

2. General Liability and Automobile Liability Coverages.

(1) CITY, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities CONSULTANT performs; 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 CITY, and their respective elected and appointed officers, officials, or employees.

(2) CONSULTANT's insurance coverage shall be primary insurance with respect to CITY, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by CITY, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, CONSULTANT's insurance.

(3) 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.

(4) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager of CITY or his or her designee otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against CITY, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by CONSULTANT.

C. Other Requirements. CONSULTANT agrees to deposit with CITY, at or before the effective date of this contract, certificates of insurance necessary to satisfy CITY that the insurance provisions of this contract have been complied with. The City Attorney may require that CONSULTANT furnish CITY with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. CITY reserves the right to inspect

complete, certified copies of all required insurance policies, at any time.

1. CONSULTANT shall furnish certificates and endorsements from each subcontractor identical to those CONSULTANT provides.

2. Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY or its respective elected or appointed officers, officials, employees and volunteers or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions and requirements of this AGREEMENT.

**APPENDIX B.  
PROPOSER PRICING FORM**

<u>Type of Service</u>	<u>Hourly Rate</u>
City Engineer	\$ _____
Senior Engineer	\$ _____
Associate Engineer	\$ _____
Assistant Engineer	\$ _____
Public Works Inspector	\$ _____
SWPPP Professional	\$ _____

**Initials**                      **Required Conditions**

- \_\_\_\_\_ Rates are not subject to minimums or maximums.
- \_\_\_\_\_ Rates are all inclusive. No additional fees will be charged.
- \_\_\_\_\_ Rates are billable in fifteen (15) minute increments.
- \_\_\_\_\_ Rates will not increase for the term of the original agreement (from the effective date through June 30, 2015).
- \_\_\_\_\_ Rates will not vary for after hours or holiday service.
- \_\_\_\_\_ Extensions to the original agreement will only be considered if the firm agrees to maintain the rates listed on this "Proposer Pricing Form" for the duration of each extension. Maintaining the rates, alone, will not guarantee an extension.

I, the undersigned, on behalf of the firm specified, hereby certify that the foregoing is true and correct and that I am authorized to bind the firm to proposals and execute agreements.

Name (please print): \_\_\_\_\_

Title (please print): \_\_\_\_\_

Name of Firm (please print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_