

AGREEMENT FOR PROFESSIONAL SERVICES

On-Call Civil Engineering and Surveying Professional Services

This Agreement is made on February 7, 2023, by and between Bengal Engineering, a California Corporation (“Contractor”), and the City of Santa Maria, a California Municipal Corporation and charter city (“City”), in Santa Maria, California, based on the following recitals:

WHEREAS, City has determined it is in the public interest to proceed with the work hereinafter described as "Project"; and

WHEREAS, City has determined the Project involves the performance of engineering services of a temporary nature; and

WHEREAS, City does not have available employees to perform the services for the Project; and

WHEREAS, City has requested the Contractor to provide manpower to complete the Project; and

WHEREAS, Contractor is registered or licensed in California to perform construction services for the Project.

NOW, THEREFORE, IT IS AGREED:

1. **Recitals true.** The above recitals are true.

2. **General.**

2.01. Term and Termination. The term of this contract is two (2) year, beginning on the date first written above. This contract may be extended by mutual consent of the parties. This contract may be terminated for breach of its terms or conditions, or because of discovery of any act which violates local, state, or federal law. Termination is effective 14 days after deposit of notice as specified in this Agreement.

2.02. Services to be Performed. Contractor shall determine the method, details, and means of providing On-Call Civil Engineering and Surveying services. More specifically, Contractor agrees to perform the specific services listed in Exhibit “A.”

2.03. City’s Duties. City’s duties under this Agreement are to cooperate with Contractor in the performance of the contract and timely pay invoices.

2.04. Payment. Payment terms under this Agreement are listed in Exhibit “B.”

2.05. Insurance. Contractor shall provide insurance as listed in Exhibit “C.”

2.06. Exhibits. Exhibits “A,” “B,” and “C” are attached and incorporated.

3. Contractor’s Obligations.

3.01. Minimum Amount of Service. Contractor shall devote sufficient time to perform services under this agreement efficiently and effectively. Contractor may represent, perform services for, and be employed by additional individuals or entities, in Contractor’s sole discretion, as long as the performance of these extra-contractual services does not interfere with or present a conflict with City’s business.

3.02. Tools and Equipment. Except as otherwise stated in this Agreement, Contractor will supply all tools and equipment necessary to perform this Agreement.

3.03. Status. Contractor (including its employees) is an independent contractor. No employer/employee relationship exists between Contractor and the City. Contractor’s assigned personnel shall not be entitled to any benefits payable to employees of the City. The City is not required to make any deductions or withholdings from the compensation payable to Contractor under this agreement. Contractor (as a business entity, including its employees) is a “design professional” as defined by California Civil Code section 2782.8(c)(3).

3.04. Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify, defend (with independent counsel approved by the City) and hold harmless the City, and its directors, officers, and employees from and against all liabilities (including without limitation all claims, losses, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys’ fees, court costs and costs of alternative dispute resolution) regardless of nature or type that arise out of, pertain to, or relate to the negligence, reckless, or willful misconduct of the Contractor including its agents, subcontractors and employees. The provisions of this paragraph survive completion of the services or the termination of this contract. The provisions of this Section are not limited by the provisions of the Section relating to insurance.

3.05. Use of Subcontractors. CONTRACTOR may subcontract with third party providers that were listed in CONTRACTOR’s Response to Request for Proposals and whose rate sheets have been included in this Agreement. Subcontractors shall be billed at the rates listed in Exhibit B. CONTRACTOR is fully responsible for the actions and omissions of any subcontractor. CONTRACTOR must ensure subcontractor adherence to the same quality standards and assurances required of CONTRACTOR. CONTRACTOR shall ensure that this Agreement is incorporated by reference into any Agreement with a subcontractor and that subcontractor complies with the insurance requirements of **EXHIBIT C.**

4. Miscellaneous

4.01. Notices. All communication relating to the day-to-day activities of this Agreement shall be exchanged between a designated representative of the CITY and a representative of CONTRACTOR, listed below. All notices shall be addressed as follows unless a written change is filed with the City:

To City:
Thomas M. Korman, P.E., P.L.S.
Principal Civil Engineer
110 East Cook Street
Santa Maria, CA 93454

To Contractor:
Bengal Engineering
Attn: Scott Onishuk, P.E.
Project Manager
360 S. Hope Ave, Suite C-110
Santa Barbara, CA 93105

If the designated Representative or address of either party changes during the term of this agreement, a written notice shall be given to the other party prior to the effective date of change. Any written notices required under this agreement shall be effective five (5) days after deposit into United States mail, postage prepaid, addressed to the designated Representative, or upon confirmation of receipt of delivery if another notification process is used.

4.02. Compliance With Laws, etc. Contractor shall comply with all laws, including but not limited to the rules and policies of the City, in performing this agreement.

4.03. Integration. This agreement constitutes the entire agreement of the parties with respect to the subject matter. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties.

4.04. Interpretation. This agreement shall be interpreted in accordance with the laws of the State of California.

4.05. Jurisdiction. Jurisdiction and venue of all disputes over the terms of this agreement shall be in the County of Northern Santa Barbara, State of California.

4.06. Warranty of authority. Each person signing this agreement on behalf of a party warrants that he or she has authority to do so.

4.07. No Waiver. Failure to enforce with respect to a default shall not be construed as a waiver.

4.08. Severability. The provisions of this agreement are severable. If any part

of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

4.09. Submittals. In addition to any other submittals required by this agreement, Contractor shall submit copies of its current business license and current certificate of workers' compensation coverage to the City before beginning work on this project.

4.10. Prevailing Wage. Prevailing Wage. If applicable, Contractor and all Subcontractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code. The Director's determination is on file and open to inspection at www.dir.ca.gov and is referred to and made a part hereof; the wage rates therein ascertained, determined, and specified are referred to and made a part hereof as though fully set forth herein.

IN WITNESS WHEREOF, this agreement is executed by the parties on the date first written above.

CONSOR, A California Corporation

CITY OF SANTA MARIA, a political
subdivision of the State of California

By: **SCOTT ONISHUK**
Project Manager

By: **JASON STILWELL**
City Manager

ATTEST:

Rhonda M. White, CMC
Chief Deputy City Clerk

APPROVED AS TO FORM:

City Attorney

Risk Manager

EXHIBIT “A”

SERVICES TO BE PERFORMED

Basic services shall be to perform various engineering/surveying tasks typical of a municipal agency. Tasks may include, but are not limited to the following:

Project Management Services

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform project management services on the project types listed above include, but are not limited to:

- Continuous interface with City staff regarding projects
- Attend project meetings and prepare meeting agendas and action items
- Follow up to ensure action items are compiled with
- Coordination with engineering consultants
- Coordination with other agencies
- Provide technical review and comment on consultant deliverables
- Development/maintenance of project schedules
- Prepare bid packages
- Track and monitor project costs
- Track and monitor all funding
- Prepare grant funding claims as required
- Prepare grant applications
- Prepare RFPs for professional services, as required to continue progress of projects.

Civil Engineering Services

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform engineering design services on the project types listed above include, but are not limited to:

- Preparation of plans, specifications and estimates
- Plan check/Peer review
- Preparation of project drawings in CAD
- Constructability Review
- Understanding and application of standard details and specifications from:
 - ✓ City of Santa Maria
 - ✓ Caltrans
 - ✓ Greenbook
 - ✓ APWA
 - ✓ AWWA
 - ✓ County of Santa Barbara
- Knowledge and understanding of the use of and requirements of federal documentation for design associated with federally-funded construction projects.
- Best Management Practices.
- Ability to work with utilities, special districts, and public agencies in and adjacent to the City of Santa Maria.
- Understanding of environmental regulations relevant to construction activities.

- Consultant is responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract or legal issues among others.
- Consultant and its sub-consultants shall pay employees the applicable prevailing wages as determined by California Department of Industrial Relations and Federal, State and local laws.

Geotechnical Engineering and Testing Services

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform geotechnical engineering and testing services on the project types listed above include but are not limited to:

- Constructability Review and Plan Check
- Understanding and application of standard details and specifications from:
 - City of Santa Maria
 - Caltrans
 - Greenbook
 - APWA
 - AWWA
 - County of Santa Barbara
- Knowledge and understanding of the use of and requirements of federal documentation for design associated with federally funded construction projects.
- Best Management Practices
- Ability to work with utilities, special districts, and public agencies in and adjacent to the City of Santa Maria.
- Understanding of environmental regulations relevant to construction activities.
- Consultant is responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract or legal issues among others.
- Consultant and its sub-consultants shall pay employees the applicable prevailing wages as determined by California Department of Industrial Relations and Federal, State, and local laws.

Traffic/Transportation Engineering

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform traffic and transportation engineering services on the project types listed above include but are not limited to:

- Traffic and parking studies including warrant analysis as applicable.
- Transportation demand management programs
- Signal timing and coordination plans, and recommendations on signal maintenance and upgrades
- Planning and conceptual designs of traffic diversion and calming plans including roundabouts.
- Planning and conceptual designs of complete streets in light of established standards and guidelines as well as assessment of potential operational impacts (such as the impacts on automobile traffic that could result from a road diet to provide bike lanes)
- Planning and establishment of safe routes to schools.
- Development and updates of transportation related policies and guidelines such as transportation master plans.
- Grant writing for federal, state, and regional funding programs for traffic studies and improvement projects.
- Review of the traffic and parking aspects of City capital improvement projects
- Multi-modal travel modeling and traffic volume forecasts

- Establishment and updates of transportation related fees such as traffic impact fees
- Respond to public inquiries and requests for traffic control device installations and modifications such as stop signs, crosswalks, traffic channelization, speed zones, etc.
- Traffic and parking management and control plans.
- Data collection including multi-modal traffic volumes, traffic speeds, origin-destination surveys, travel time and delays, and parking utilization
- Sign and pavement marking retroreflectivity assessment and data processing
- Present projects and programs in project meetings, community workshops, and public hearings as needed.

Structural Engineering

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform structural engineering services on the project types listed above include, but are not limited to:

- General structural engineering services
- Inspection and testing services
- Computer-aided structural design and drafting of bridges, retaining wall and other structures
- Plan checking services
- Provide structural engineering services on existing or potential construction of bridges, overpasses, building foundations, and retaining walls. Design of repairs, retrofits, or modifications to existing bridges and structures
- Seismic analysis of existing bridges and other structures
- Load rating of existing bridges
- Provide structural engineering services for potentially hazardous situations such as seismic activity. Design temporary shoring for structures damaged during a disaster or seismic activity.
- Provide a Structural report including site plan, results of investigation, conclusions, and Structural recommendations for design of the proposed facility or remodel.
- Provide structural engineering services on building permits for new construction and/or remodels.
- Provide technical support to staff on structural related matters during bidding and construction. This includes but is not limited to responding to bidder questions, providing addenda and written clarifications when necessary, responding to contractor Requests for Information (RFI), reviewing contractor submittals to assure conformance with the construction specifications and drawings, attending project related meetings, and addressing structural problems and deficiencies.
- Provide general structural consulting services such as interpreting code requirements, identifying and selecting design alternatives, assisting with cost estimates, and providing peer reviews. The Consultant will be expected to provide written reports, technical memorandums, calculations, or other documentation as necessary, and have the capability to develop biddable design documents and provide engineering support during construction.
- Other structural engineering services as needed.

Surveying Services

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform structural engineering services on the project types listed above include, but are not limited to:

- Design surveys
- Topographic surveys
- Construction staking
- Quality assurance of contractor staking
- Monument control
- Record and title research
- Plat and legal description for property acquisitions
- ROW certifications (Caltrans)
- Map Checking
- Corner Record
- Property and Easement Descriptions

Landscape Architecture & Design

TYPICAL SERVICES REQUIRED

Below are the anticipated required services and abilities required to successfully perform landscape architecture and design services on City projects, but are not limited to:

- Developing preliminary plans and working drawings
- Preparing cost estimates and work schedules
- Preparation of specifications and construction support
- The landscape architectural consultant must have specific design expertise with landscape designed for USGBC, LEED building projects, and shall have a LEED accredited professional as a part of the project staff.
- The landscape architecture firm will also facilitate discipline coordination, coordination between the City and any regulatory agencies as required.
- Understanding of standard details and specifications from:
 - Caltrans
 - Greenbook
 - APWA
 - AWWA
 - City of Santa Maria
 - County of Santa Barbara

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform Environmental Planning and Permitting Services on the project types listed above include, but are not limited to:

- Phase I and Phase II Environmental Site Assessments
- Risk Assessments and Feasibility Studies
- Remediation Engineering
- Indoor Air Quality
- Underground Storage Tank Investigation/Removal
- Hazardous Waste Management
- Application of state and local laws and ordinances and the City's Municipal Code

- Application of CEQA and NEPA
- Thorough knowledge and understanding of the City's General Plan
- Attendance at internal and external meetings with staff and other consultants
- Attendance at Planning Commission
- Assist in preparation of Staff Reports and Exhibits for Planning Commission
- Review mitigation plans
- Application of Regional Water Quality Control Board requirements.
- Understanding of experience working with various agencies including but not limited to:
 - Caltrans
 - County of Santa Barbara
 - Regional Water Quality Control Board
 - Santa Barbara County Air Pollution Control District
 - Fish and Wildlife
 - Army Corps of Engineers

Land Development Review

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform Development Review services on the project types listed above include, but are not limited to:

- Application of state and local laws and ordinances and the City's Municipal Code.
- Application of the Subdivision Map Act
- Attend internal and external meetings with staff, applicants, and other review bodies
- Review Traffic analyses
- Review Drainage studies
- Application of Regional Water Quality Control Board requirements
- Review of project plans in relation to public impacts/improvements and conformance with City Planning documents such as:
 - General Plan
 - Specific Plans
 - Bikeway Master Plan
 - Active Transportation Plan
 - Utility Capacity Study
- Understanding of standard details and specifications from:
 - Caltrans
 - Greenbook
 - APWA
 - Institute of Transportation Engineers (ITE) Trip Generation Manuals
 - City of Santa Maria
 - County of Santa Barbara
- Ability to work with the Utilities Department, special districts, and public agencies in and adjacent to the City of Santa Maria

Construction Management and Inspection (CMI)

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform CMI services on the projects listed above include, but are not limited to:

- Constructability Review
- Oversight of construction surveying and material testing
- Pre-job coordination and administration activities

- Understanding of standard details and specifications from:
 - Caltrans
 - Greenbook
 - APWA
 - AWWA
 - City of Santa Maria
 - County of Santa Barbara
- Experience in documentation of activities through Daily Inspection Logs
- Construction Safety Orders
- Best Management Practices
- Inspection:
 - Traffic Control
 - Storm Water Prevention Measures
 - General Street Construction
 - Underground Utility Construction
 - Traffic Signal Installation
 - Landscaping and Irrigation Installation
 - Street Striping
- Ability to work with utilities and public agencies in and adjacent to the City of Santa Maria
- Understanding of environmental regulations relevant to construction activities.

Right-of-Way Services

TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform right-of-way services include but are not limited to:

- **Appraisal**
 - Appraise Properties
 - Prepare Appraisal Report
- **Negotiation**
 - Negotiate for the purchase of partial/full properties
 - Prepare all letters and documents required for the proposed acquisitions including but not limited to the following:
 - Offer Letter
 - Appraisal Summary Statement
 - Agreement for purchase
 - Deeds
 - Other documents as required
 - Present the offer in person and handle all discussion with owners
 - Keep the City advised as to the status of negotiations.
- **Escrow and Title Coordination**
 - Assist the City in handling the escrow and title work
- **Project Management**
 - Attend meetings, provide general consultations or right-of-way matters pertaining to the project.
- **Project Tracking and Clerical**
 - Provide the necessary tracking and clerical work for the right-of-way acquisition work for the project.

EXHIBIT "B"

PAYMENT

I. Progress Authorization

This contract is subject to the requirements of Page G-9 of the Purchasing Guidelines for the City of Santa Maria.

Individual task orders will be created under this Master Agreement for the completion of each task and billed according to the attached rate sheet.

During the duration of this Master Agreement the City will identify individual task, and upon agreed scope of work, schedule, and cost, a Notice to Proceed and Purchase Ordered will be issued for each task not to exceed \$75,000 per task as indicated in Section 1.1B.

The aggregate not-to-exceed fee for all tasks provided during the initial two-year term of the Agreement shall be \$500,000.00.

II. Invoice procedure.

- A. Payment shall be at the conclusion of the Project based on the billable charges.
- B. The Contractor shall present the bill for charges by the second day of the month.
- C. The Contractor's bill shall be substantiated by appropriate documentation, and include an itemized listing of personnel, subcontractors, and other direct costs incurred.

III. Maximum billable amounts

Under no circumstance shall the total of all payments to the Contractor exceed ninety percent (90%) of the maximum not-to-exceed cost, prior to acceptance by the City of all items to be completed as noted within Exhibit "A".

Rate Sheet

Bengal Engineering Billing Rates - 2022-2023

Projects that do not have state/federal funding will be charged at our standard in-house rates:

	\$/Hr
Principal Engineer	\$ 196.00
Project Manager	\$ 175.00
Bridge Engineer	\$ 170.00
Geotechnical Engineer	\$ 170.00
Engineering Geologist	\$ 170.00
Civil Engineer	\$ 150.00
Staff Engineer	\$ 116.00
Drafting / Technician	\$ 100.00
Administrative	\$ 105.00

EXHIBIT "C"

INSURANCE

INSURANCE REQUIREMENTS

Provider shall procure and maintain for the duration of the contract insurance 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 the Provider, his/her agents, representatives, or employees. If the Provider maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Provider.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), including products and completed operations, property damage, bodily injury and personal & advertising injury.
2. Insurance Services Office Business Auto Coverage Form Number CA 00 01 covering any auto (Code 1), or if Provider has no owned autos, covering hired (Code 8) and non-owned autos (Code 9).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the Provider's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.
5. Cyber Liability Insurance, Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

B. Minimum Limits of Insurance

Provider shall maintain limits no less than:

1. General Liability - \$2,000,000 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 (ISO CG 25 03 or 25 04) 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. Workers' Compensation: Statutory limits.
4. Employer's Liability - \$1,000,000 per accident for bodily injury or disease.
5. Errors and Omissions Liability - \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
6. Cyber Liability- \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

C. Self-insured Retentions

Self-insured retentions must be declared to and approved by the City. The City may require the Provider to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

D. Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Provider including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Provider's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38 **and** CG 20 37 forms if later revisions are used).
2. For any claims related to this project, the Provider's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Provider's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled or reduced, except with notice **stating the title of this contract** to the City. **All notices provided pursuant to this Agreement shall be given to the City representative listed for notice in this agreement and shall specify the title of this Agreement.** Notice may be given by overnight mail, facsimile with confirmation of receipt, or certified mail with return-receipt requested.
4. Provider hereby grants to City a waiver of any right to subrogation which any insurer of said Provider may acquire against the City by virtue of the payment of any loss under such insurance. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
5. If any of the required policies provide claims-made coverage:

a. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Provider must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

F. Verification of Coverage

Provider shall furnish the City with original certificates and amendatory endorsements of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Provider's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

G. Special Risks or Circumstances

The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.