

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES is made and entered into this 18th day of November, 2013, by and between the CITY OF LANCASTER, a municipal corporation, hereinafter referred to as OWNER, and PENFIELD & SMITH, hereinafter referred to as CONSULTANT.

RECITALS

WHEREAS, OWNER desires to engage CONSULTANT to perform certain technical and professional services, as provided herein, identified as:

PWCP 11-019 – AVENUE L AND CHALLENGER WAY ROUNDABOUT

WHEREAS, the principal members of CONSULTANT are qualified and duly registered/licensed under the laws of the State of California, and CONSULTANT desires to accept such engagement;

NOW, THEREFORE, the parties agree as follows:

1. **Parties to the AGREEMENT.**

The parties to this AGREEMENT are:

- A. OWNER: City of Lancaster.
- B. CONSULTANT: Penfield & Smith

2. **Notices.** All written notices required by or related to this AGREEMENT shall be sent by Certified Mail, Return Receipt Requested, postage prepaid and addressed as listed below. Neither party to this AGREEMENT shall refuse to accept such mail; parties to this AGREEMENT shall promptly inform the other party of any changes of address. All notices required by this AGREEMENT are effective on the day of receipt, unless otherwise indicated herein.

OWNER Director of Public Works
 City of Lancaster
 44933 North Fern Avenue
 Lancaster, California 93534

CONSULTANT Hady Izadpanah
 Penfield & Smith
 42225 10th Street West, Suite 119
 Lancaster, CA 93534

3. **Successors and Assigns.** The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without prior written consent of the other party, and any such assignments without said consent shall be void.

4. **Incorporation by Reference.** The CONSULTANT'S Proposal is hereby incorporated in and made a part of this AGREEMENT. CONSULTANT agrees to comply with all of the requirements set forth therein.

5. **Precedence of AGREEMENT Documents.** If there is a conflict between AGREEMENT documents, the document highest in precedence shall control. The precedence shall be:

- First: This Document consisting of 19 pages excluding paragraph 5
- Second: The CONSULTANT'S Proposal

6. **Description of Work.** OWNER hereby engages CONSULTANT, and CONSULTANT accepts such engagement, to perform the technical and professional services set forth in the "Scope of Services" attached hereto as Exhibit "A". CONSULTANT shall perform and complete, in a manner satisfactory to OWNER, all work and services set forth in Exhibit "A". The Director of Public Works or his designee shall have the right to review and inspect the work during the course of its performance at such times as may be specified by the Director of Public Works, or his designee.

7. **Obligations of the OWNER.**

A. The total compensation to be paid by OWNER to CONSULTANT for all work and services described in Exhibit "A" is not to exceed \$74,300.00. CONSULTANT'S fees and charges for the work and services performed shall in no event exceed those set forth in Exhibit "B" attached hereto and made a part hereof.

B. No payment made hereunder by OWNER to CONSULTANT, other than the final payment, shall be construed as an acceptance by OWNER of any work or materials, nor as evidence of satisfactory performance by CONSULTANT of its obligations under this AGREEMENT.

8. **Obligations of the CONSULTANT.**

A. CONSULTANT shall perform as required by this AGREEMENT. CONSULTANT also warrants on behalf of itself and all subcontractors engaged for the performance of this AGREEMENT.

B. CONSULTANT shall be responsible for payment of all employees' and subcontractor's wages and benefits, and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.

9. **Audit.** OWNER shall have the option of inspecting and/or auditing all records and other written materials used by CONSULTANT in preparing its statements to OWNER as a condition precedent to any payment to CONSULTANT.

10. **Hold Harmless and Indemnification.** CONSULTANT agrees to indemnify and hold harmless the OWNER, its officers and employees, from and against any and all claims, losses, obligations, or liabilities whatsoever, including reasonable Attorney's fees, incurred in or in any manner arising out of or related to CONSULTANT'S negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. CONSULTANT agrees to defend OWNER, its officers and employees, from and against any and all claims arising from any alleged negligent or wrongful acts, errors or omissions on the part of CONSULTANT or on the part of its employees.

11. **Amendments.** Any amendment, modification, or variation from the terms of this AGREEMENT shall be in writing and shall be effective only upon mutual written approval by the Director of Public Works and CONSULTANT.

12. **Non-Discrimination and Equal Employment Opportunity.**

A. In the performance of this AGREEMENT, CONSULTANT shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, ancestry, sex, national origin, physical or mental disability or age. CONSULTANT will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

B. The provisions of subsection A above shall be included in all solicitations or advertisements placed by or on behalf of CONSULTANT for personnel to perform any services under this AGREEMENT. OWNER shall have access to all documents, data and records of CONSULTANT and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section.

13. **Termination for Convenience.** The governing board of the OWNER may terminate this AGREEMENT at any time without cause by giving fifteen (15) days written notice to CONSULTANT of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall, at the option of OWNER, become the OWNER's property. If this AGREEMENT is terminated by OWNER as provided herein, CONSULTANT will be paid a total amount equal to its costs as of the termination date, plus ten percent (10%) of that amount for profit. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this AGREEMENT.

14. **Termination for Cause.**

A. The governing board of the OWNER may, by written notice to CONSULTANT, terminate the whole or any part of this AGREEMENT in any of the following circumstances:

(1) If CONSULTANT fails to perform the services required by this AGREEMENT within the time specified herein or any authorized extension thereof; or

(2) If CONSULTANT fails to perform the services called for by this AGREEMENT or so fails to make progress as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these circumstances does not correct such failure within a period of ten (10) days (or such longer period that OWNER may authorize in writing) after receipt of notice from OWNER specifying such failure.

B. In the event OWNER terminates this AGREEMENT in whole or in part as provided above in paragraph A of this Section, OWNER may procure, upon such terms and in such manner as it may deem appropriate, services similar to those terminated.

C. If this AGREEMENT is terminated as provided above in paragraph A, OWNER may require CONSULTANT to provide all finished or unfinished documents, data, studies, drawings, maps, photographs, reports, etc., prepared by CONSULTANT. Upon such termination, CONSULTANT shall be paid an amount equal to the contract amount, less the cost of hiring another CONSULTANT to complete CONSULTANT's services. In the event no new CONSULTANT is employed, CONSULTANT shall be paid an amount equal to the value of the work performed. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to completed work and work in progress, complete and incomplete drawings, and other documents whether delivered to OWNER or in possession of CONSULTANT, and authorized reimbursement expenses.

D. If, after notice of termination of the AGREEMENT under the provisions of this Section, it is determined, for any reason, that CONSULTANT was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 14.

15. **Independent Contractor.** CONSULTANT is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of the OWNER. It is expressly understood between the parties to this AGREEMENT that no employee/employer relationship is intended; CONSULTANT is an independent contractor.

16. **Insurance.**

A. (1) The CONSULTANT, at its expense, shall maintain in effect at all times during the performance of work under this AGREEMENT not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A-, VIII" or better in the Best's Key Rating Guide and that are admitted insurers in the State of California:

Commercial General Liability	
Each Occurrence	\$1,000,000
Per Project General Aggregate	\$2,000,000
Including Products/Completed Operations	
Including Contractual Liability/Independent Contractors	
Including Broad Form Property Damage	
 Commercial Automobile Liability	
Combined Single Limit per Accident for Bodily Injury and Property Damage	\$1,000,000
 Workers Compensation	
As Required by the State of California	Statutory Limits
 Employer's Liability	
Each Accident	\$1,000,000
Bodily Injury by Disease	\$1,000,000
Each Employee	\$1,000,000

Professional Liability

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

B. Insurance shall be at least as broad as ISO form CG 20 10 11 85 or CG 20 10 10 01 and CG 20 37 10 01 covering Commercial General Liability. Commercial Automobile coverage shall be at least as broad as ISO form CA 00 01.

C. The 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 insured's liability.

D. A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation/Employers Liability policies and a copy of the endorsement must accompany the certificate.

E. Any deductibles or self-insurance retentions must be declared and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City insured entities or the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

F. All insurance shall be primary and non-contributory as respects the City insured entities. Any insurance or self-insurance maintained by the City insured entities shall be in excess of the CONSULTANT'S insurance and shall not contribute with it.

G. The coverage provided under this contract shall not contain any special limitations on the scope of protection afforded to the City insured entities.

H. Insurance provided and maintained by CONSULTANT must be placed with insurers with a rating of A-, VIII or better by Best's Key Rating Guide, latest edition, and that are admitted insurers in the State of California.

I. Insurance written on a "claims made" basis must be renewed for a period of five (5) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover CONSULTANT for all claims made by the City insured entities arising out of any acts or omissions of CONSULTANT or its officers, employees, or agents during the time this Agreement was in effect.

J. CONSULTANT shall furnish the City with Certificates of Insurance and with original endorsements effecting coverage required by this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

K. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City insured entities.

L. Certificates of Insurance must be deposited with the City of Lancaster for all coverage required by this contract. Certificates shall meet the following requirements:

(1) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after 30 days prior written notice (10 days written notice for non-payment) by Certified Mail, return receipt requested to the City of Lancaster.

(2) List in the "Descriptions of Operations/Locations/Vehicles/Special Items" section:

PWCP 11-019 – Avenue L and Challenger Way Roundabout

The Certificate Holders, as well as their officers, agents, servants, and employees are included as additional insured as respect to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied, or used by Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant. (This does not apply to Professional Liability policies.)

(3) List in the "Certificate Holder" section:

The City of Lancaster, the Lancaster Successor Agency, the Lancaster Financing Authority, the Lancaster Housing Authority, the Lancaster Boulevard Corporation, the Lancaster Community Services Foundation, and the Lancaster Museum and Public Art Foundation, as well as each of their officers, agents, servants, and employees, 44933 Fern Avenue, Lancaster, California 93534.

(4) List in the "Cancellation" section:

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail 30 written notice (10 days written notice for non-payment) to the Certificate Holders named to the left.

M. CONSULTANT shall include all subcontractors as an insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. Subcontractors are subject to the same insurance requirements as the CONSULTANT.

N. The coverage shall contain no special limitations on the scope of protection afforded to the insured entities. The CONSULTANT'S insurance coverage shall be primary insurance as respects the City's insured entities.

17. **Commencement and Completion of Work.** The execution of this AGREEMENT by the parties does not constitute an authorization to proceed. The services of CONSULTANT shall commence when the OWNER, acting by and through its Director of Public Works or his designee, has issued the Notice to Proceed.

CONSULTANT shall have no claim for compensation for any services or work which has not been authorized by the OWNER's Notice to Proceed.

18. **Extension of Time for Completion of Work.**

A. If, at any time, the work is delayed due to suspension order by OWNER, or due to any other cause which, in the reasonable opinion of the OWNER, is unforeseeable and beyond the control and not attributable to the fault or negligence of CONSULTANT, then CONSULTANT shall be entitled to an extension of time equal to said delay, subject to the OWNER's right to terminate this AGREEMENT pursuant to Section 14.

B. CONSULTANT shall submit to OWNER a written request for an extension of time within ten (10) days after commencement of such delay, and failure to do so shall constitute a waiver thereof. OWNER shall, in its sole discretion, determine whether and to what extent any extensions of time shall be permitted.

C. No extension of time requested or granted hereunder shall entitle CONSULTANT to additional compensation unless, as a consequence of such extension, additional work must be performed. In such event, OWNER shall in good faith consider any request for additional compensation submitted by CONSULTANT.

19. **Ownership of Documents.** All plans, specifications, reports, studies, tracings, maps and other documents prepared or obtained by CONSULTANT in the course of performing the work required by this AGREEMENT shall be the property of the OWNER. Basic survey notes, sketches, charts, computations and similar data prepared or obtained by CONSULTANT under this AGREEMENT shall, upon request, be made available to OWNER without restriction or limitation on their use.

20. **Data Provided to CONSULTANT.** OWNER shall provide to CONSULTANT, without charge, all data, including reports, records, maps and other information, now in the OWNER's possession which may facilitate the timely performance of the work described in Exhibit "A".

21. **CONSULTANT's Warranties and Representations.**

CONSULTANT warrants and represents to OWNER as follows:

A. CONSULTANT has not employed or retained any person or entity, other than a bona fide employee working exclusively for CONSULTANT, to solicit or obtain this AGREEMENT.

B. CONSULTANT has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this AGREEMENT. Upon any breach or violation of this warranty, OWNER shall have the right, in its sole discretion, to terminate this AGREEMENT without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

C. CONSULTANT has no knowledge that any officer or employee of the OWNER has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of the CONSULTANT, and that if any such interest comes to the knowledge of CONSULTANT at any time, a complete written disclosure of such interest will be made

to OWNER, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

D. Upon the execution of this AGREEMENT, CONSULTANT has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of services and work required by this AGREEMENT, nor shall any such interest be acquired during the term of this AGREEMENT.

22. **Resolution of Disputes.**

A. Disputes regarding the interpretation or application of any provisions of this AGREEMENT shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

B. If the parties cannot resolve the dispute through good faith negotiations, either party may give Notice of Dispute to the other party. The Notice of Dispute shall state the nature of the dispute and the corrective action necessary to remedy the dispute.

After Notice of Dispute, the parties shall first attempt to resolve any disputes by mediation. The parties shall agree on a single mediator. Mediation shall be conducted in Lancaster, California. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

If the dispute has not been resolved by mediation within 45 days after Notice of Dispute, or the parties are unable to agree to a mediator, within 15 days after Notice of Dispute, then, the dispute may, upon agreement of the parties be resolved by binding arbitration.

23. **Exhibits.**

The following exhibits to which reference is made in this AGREEMENT are deemed incorporated herein in their entirety:

Exhibit "A" Scope of Services

Exhibit "B" Payment Clause

24. **Governing Law.**

This AGREEMENT shall be governed by the laws of the State of California.

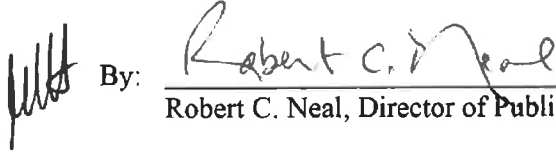
25. **Effective Date.**

This AGREEMENT shall become effective as of the date set forth below on which the last of the parties, whether OWNER or CONSULTANT, executes said AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and attested by their respective officers thereunto duly authorized.

"OWNER"
CITY OF LANCASTER
LANCASTER, CALIFORNIA

Approved By Department Head:

By:  _____
Robert C. Neal, Director of Public Works

Dated: 10-25-13

By:  _____
Mark V. Bozigian, City Manager


Dated: 11-18-13

"CONSULTANT"
PENFIELD & SMITH

By:  _____
Hady Izadpanah, President

Dated: 10/15/2013

ATTEST:


Geni K. Bryan, CMC
City Clerk

APPROVED AS TO FORM:



ALLISON E. BURNS, ESQ.
City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

The Consultant shall maintain separate costs for each project and shall identify the costs specific to each project.

The work to be performed under this contract shall include:

SEE ATTACHED

EXHIBIT A

SCOPE OF WORK

Task 1.1 – Project Management

1. Monitor and update project schedule and budget.
2. Provide weekly project updates via email, including
 - Project Activity, brief summary of
 - Information Pending
 - Outstanding Issues (include Assigned to and Due Dates)
 - Chronological List of Items and Documents Received for the Project
 - Status of Project by Scope of Work Tasks (% Complete)

Task 1.2 – Coordination

1. Schedule, prepare agenda and minutes for, and participate in up to two (2) plan review meetings.
2. Research existing utility companies within the project area and establish appropriate contact information for each.
3. Prepare and update project schedule.

Task 1.3 – Quality Assurance and Quality Control

Due to time constraints, our quality control review will occur concurrently with the City's 75% review and also at the 95% design stage.

Task 1 deliverables:

- Progress Meetings (2) (Agenda and Minutes)
- Project Schedule

Task 2 – Research and Field Investigation

Task 2.1 - Records Review

1. Request and review all available site plans, as-built record drawings, utility plans, and topographic mapping in AutoCAD format.
2. Request and review environmental documents.



3. Request and review the latest City Standard Details and Specifications.

Task 2.2 – Field Investigation

1. Visit the project site to document the existing street alignments, visually evaluate existing/potential drainage issues, utility features and identify other issues that may affect the design.
2. Field verify existing record plans, utility records, and available survey information.
3. Photo document the project area and compile a photo log that documents the existing conditions within the project area.

Task 2.3 – Utility Research

1. Penfield & Smith will contact all known service providers and request record information. This will include obtaining City of Lancaster base map and utility atlas information within the project limits.
2. Compile and incorporate the information collected from utility providers and City into the topographic base map, utilizing the dimensions and depths provided and geo-referenced to the actual field surveyed utility features wherever possible.
3. Develop and maintain utility correspondence log and document utility companies, contact information, date of contact, date of response and other pertinent information related to utility company coordination.
4. Transmit utility conflict exhibit(s) to affected utility companies.
5. Transmit 75% plans and specifications to affected utility companies.

Task 2 Deliverables:

- Utility Base Map
- Utility Correspondence and Communication Log

Task 3 – Survey, Mapping and Right-of-Way Acquisition

The City of Lancaster will be providing all services related to surveying, mapping and right-of-way acquisition. P&S will convert topographic survey provided into a file that can be used with Civil 3D.

Task 4 – Construction Documents (PS&E)

Task 4.1 – 75% Plans



1. Prepare project title sheet.
2. Prepare project notes sheet using City standard general notes, to be supplemented in future design milestones.
3. Prepare project key map.
4. Develop roadway centerline stationing and geometric plan.
5. Prepare demolition plans delineating improvements to be removed, protected in place or salvaged for reuse. Create demolition layers in topographic basemap.
6. Prepare the following sheets in preparation for 75% design:
 - Cross Section/Details sheet
 - Plan and Profile sheets (10 or 20 scale as deemed appropriate)
 - Drainage Details sheet (scale as appropriate)
 - Roundabout Lighting Plan (40 scale)

Plan Sheet Description	Estimated No. of Sheets
Title Sheet	1
General Notes	1
Key Map	1
Typical Sections	2
Demolition Plans	4
Street Plan and Profile	4
Civil Details	1
Drainage Details	1
Pavement Delineation and Sign Plan	4
Lighting Plans	<u>3</u>
Total Sheets:	22

7. Prepare an Engineers Opinion of Probable Construction Cost using quantiles calculated/estimated from the 75% design drawings with the appropriate contingency. As-bid unit cost data will be requested from the City and other agency cost data will be researched to generate estimated unit costs.

Task 4.1 – Deliverables

- 75% Plans and Estimates

Task 4.2 – 95% Plans, Specifications and Estimates



1. Address City 75% PS&E comments.
2. Continue with the preparation of project plans as detailed in Task 4.1, using City of Lancaster standards, as augmented by Caltrans standard plans and Greenbook specifications. The plans will include, at a minimum, horizontal control and call-outs to sufficiently layout the design elements (pavement, curb, gutter, sidewalk, etc.) and centerline profile to identify any major drainage issues (i.e., low points). The sheets will provide appropriate construction call outs, including limits of work and details necessary to construct improvements.
3. Prepare technical provisions for construction items not included in the Greenbook (Greenbook and front end specs to be provided by the City), as well as any special details or cut sheets for incorporation by the City.
4. Prepare an Engineers Opinion of Probable Construction Cost using quantities calculated/estimated from the 95% design drawings with the appropriate contingency. As-bid unit cost data will be requested from the City and other agency cost data will be researched to generate estimated unit costs.
5. Submit the 95% design package as a work in progress to final design for review by City staff.

Task 4.2 – Deliverables

- 95% Plans and Estimates
- 75% Design Review Meeting Minutes

Task 4.3 – 100% (Final) Plans, Specifications and Estimate

P&S will proceed with final design based on receipt of written City comments to the 95% submittal. At this stage it is anticipated that all significant comments, utility, right of way and environmental issues are resolved or completed sufficiently so that the final outcome is readily understood.

1. Address City 95% comments, in order to provide a construction bid package to submit to Caltrans for review.
2. Update technical provisions for construction items not included in the Greenbook, and update special details or cut sheets for incorporation by the City into an advertised package.
3. Prepare an Engineers Opinion of Probable Construction Cost using quantities calculated/estimated from the 100% design drawings.
4. Submit the 100% design package for review by City staff.



Task 4.3 – Deliverables

- Editable AutoCAD drawings (Auto CAD 2010), WORD (Specifications) and EXCEL (Estimate) files
- Electronically stamped and signed PDFs of Construction Documents. PDF's will be electronically generated from AutoCAD, WORD and EXCEL files and signed electronically.

SERVICES NOT INCLUDED

The following services and all other services not specifically listed herein are excluded:

1. Roundabout planning analysis and Geometric design – The City has specifically excluded geometric design from this contract. It is assumed that Ourston Roundabout Engineering has gone through the industry standard planning procedure for a roundabout in this location. It is also assumed that the costs associated with changes to the geometric design will be considered extra services. Additionally, P&S has not accounted for delays to the schedule as a result of any geometric changes. Lastly, it is P&S's expectation that Ourston Roundabout Engineering will stamp and sign the geometric drawings, for which they will remain in responsible charge.
2. Design level survey and mapping of topographic and planimetric features depicting the existing conditions of the signing, striping, street lights, traffic signals, pavement limits and drainage features and utilities within the "Project Limits."
3. Boundary establishment surveys and/or legal descriptions.
4. Right of way appraisals and acquisition services, including title report fees. The City of Lancaster assumes no right-of-way acquisition will be required.
5. Governmental and public agency fees.
6. Utility potholing or underground detection services.
7. Geotechnical investigations or recommendations. Pavements will be designed to the same structure as existing intersection pavements, or based on a Traffic Index as provided by the City and R-values as based on a review of existing soils reports in the immediate vicinity.
8. Design of City-owned utility relocations other than modifications to the existing storm drain culvert on the east leg of the intersection, to provide adequate drainage for the new intersection configuration and grading.



9. Non-performance of Utility Companies – P&S shall be responsible to contact, notify and update utility agencies with project information pertinent to their design of utility modifications associated with the project, in a timely manner. P&S shall contact each utility upon notice to proceed and document both the agency's requirements in order to begin design as well as their anticipated schedule to complete design. P&S will continually monitor the progress of these utility designs and relay this information to the City in its status updates. P&S shall not be held responsible for delays to the schedule resulting from any utility provider's failure to perform.
10. Revised Hydrology/Hydraulic Analysis. P&S assumes that the existing storm drain infrastructure has sufficient capacity.
11. Coordination and paperwork associated with Federal funding.
12. Any and all services or delays to schedule associated with existing or discovered hazardous materials within the project limits.
13. Erosion Control Plans and water quality reporting and permitting requirements.
14. Bidding assistance.
15. Construction surveying.
16. Construction phase services.
17. Construction staging or Traffic control plans, including temporary traffic signal plans.

CLIENT TO PROVIDE

Client or co-consultant at Client's direction shall provide the following items to Penfield & Smith;

1. Design level survey and mapping of topographic and planimetric features depicting the existing conditions of the right of ways, street, trees, signing, striping, street lights, traffic signals, driveways, drainage features and utilities within the "Project Limits."
2. Title reports, Legal Descriptions, Right of way appraisal and acquisition services.
3. Approved roundabout geometric layout, in AutoCAD format, with design notes.
4. Roundabout line-of-sight and stopping sight distances exhibit
5. Environmental clearance documents.
6. Drainage infrastructure plans (existing and master planned).



7. Latest City Standard Details.
8. Front end and Greenbook portions of project specifications.
9. Utility fees.
10. Desired structural section for pavement.

ADDITIONAL SERVICES

Services performed outside the scope of this agreement require written approval prior to performance of the work. Design changes by Owner/Client or designee after the start of design shall be considered additional services. Any work requested by Owner/Client that is outside the scope of this agreement will be identified by Penfield & Smith as such, and a fixed fee or not-to-exceed amount will be agreed upon prior to the start of the additional work. Compensation for additional services shall be in accordance with Exhibit "A", Penfield & Smith's Billing Rate Schedule currently in effect.

TIME OF PERFORMANCE

We understand that due to funding constraints that the City has requested that the design package be complete by November 7, 2013. We will be working with the City throughout the project to modify that schedule as issues arise, in order to meet that final deadline.



EXHIBIT B

PROPOSED FEE AND METHOD OF PAYMENT

Our proposed services will be performed on a fixed fee basis and shall be billed monthly as a percentage complete of our services. Materials (Reimbursable Expenses) are not included in the fixed fee. "Materials" include all reimbursable expenses, such as photocopies, postage, shipping/delivery, mileage, plots, prints, maps/documents and outside consultant fees.

Based on our understanding of your requirements and our experience with similar projects, the lump sum fee required for our services is as follows:

Task 1 – Project Administration and Management	\$ 5,500
Task 2 – Research and Field Investigation	\$ 3,500
Task 3 – Mapping	\$ 3,500
Task 4 – Civil Design and Cost Estimates	\$60,000
Direct Costs / Reimbursable Expenses	<u>\$ 1,800</u>
Total	\$74,300

Additional services or items not included in the above Scope of Work shall be performed on a time and materials basis and shall be billed monthly at the rates then currently in effect or shall be negotiated on a fixed fee basis. Charges for "time" include professional, technical and clerical support services provided by Penfield & Smith.





R. Rex Parris Mayor
Marvin E. Crist Vice Mayor
Ronald D. Smith Council Member
Ken Mann Council Member
Sandra Johnson Council Member
Mark V. Bozlglan City Manager

April 9, 2015

Ms. Chi Truong
Stantec Consulting Services, Inc.
111 East Victoria Street
Santa Barbara, California 93101

Dear Ms. Truong:

On November 7, 2014, Penfield & Smith sent a letter notifying the City of Lancaster ("COL") that Stantec Consulting Services Inc. ("Stantec") purchased all shares of Penfield & Smith Engineers, Inc. (P&S"); and was therefore requesting consent to assignment of agreement(s) executed between the City of Lancaster and P&S.

The COL hereby consents to the assignment of all contract rights and obligations contingent upon receipt of a Certificate of Insurance for each project that complies with the insurance requirements of the original agreement.

Enclosed please find a document which details the status of each agreement's insurance requirement.

Feel free to contact me at (661) 723-6185 if you have any questions regarding this decision.

Regards,

A handwritten signature in black ink, appearing to read "Cathy DeFalco".

Cathy DeFalco, C.P.M.
Energy Manager – Regulatory

CC: Derek Rapp, Stantec
Jocelyn Corbett
Ray Hunt
Teresa LaFever


NO. 1 - ADDITIONAL AUTHORIZATION FOR CONSULTANT SERVICES

TO: Hady Izadpanah
Penfield & Smith
42225 10th Street West, Suite 119
Lancaster, CA 93534

Under terms of our Professional Consultant Services Agreement dated November 18, 2013, you are authorized to proceed with the following consulting services:

<u>Project Name:</u>	PWCP 11-019 – Avenue L and Challenger Way Roundabout
<u>Original Authorization:</u>	\$74,300.00
<u>This Authorization:</u>	\$4,715.00
<u>Total Not To Exceed:</u>	\$79,015.00
<u>Date Required:</u>	January 10, 2014
<u>Project Manager:</u>	Stephen Carrillo

ACCEPTED:



Hady Izadpanah, President
Penfield & Smith

12/18/2013

Date

AUTHORIZED:



Robert C. Neal, PE
Director of Public Works

1-9-14

Date

SC:ef

EXHIBIT "A"

SCOPE OF SERVICES

The Consultant shall maintain separate costs for each project and shall identify the costs specific to each project.

The work to be performed under this contract shall include:

SEE ATTACHED



Penfield & Smith

42225 10th Street West,
Suite 119
Lancaster, CA 93534

tel 661-949-6678
fax 661-945-7592

www.penfieldsmith.com

Santa Barbara
Camarillo
Santa Maria
Lancaster

Civil Engineering

Land Surveying

Land Use Planning

Construction
Management & Inspection

Traffic & Transportation
Engineering

Transportation Planning

Structural Engineering

Water Resources
Engineering

GIS

W.O. 21160.01

December 16, 2013

City of Lancaster
Public Works Department
Capital Engineering Division
615 West Avenue H
Lancaster, CA 93534
Attention: Mr. Ray Hunt

Subject: **PWCP 11-019 Avenue L and Challenger Way Roundabout
– Additional Services for Landscape and Irrigation Design**

Dear Ray:

In response to your email, here is a proposal for extra services as discussed.

ADDITIONAL SCOPE OF SERVICES

Prepare landscape and irrigation plans according to TCLA proposal dated December 16, 2013, attached.

PROPOSED ADDITIONAL FEE

Our services will be performed on a "time and materials" basis, not to exceed and shall be billed monthly at the rates then currently in effect. We estimate that fees required for our additional services will be \$4,715, bringing the total contract amount to \$79,015. Our charges will not exceed the above fee estimate without your prior authorization.

We have estimated the cost of our services based on our understanding at this time of the scope and complexity of the work. However, please note that during the performance of our services, the need for additional or expanded services may be determined. We will keep you informed of our progress and shall require your authorization for services that exceed the scope and/or fee estimate limits.

Exhibit "A"

Mr. Ray Hunt
December 16, 2013
Page 2

AUTHORIZATION

Should you require additional information or wish to discuss this proposal further, please contact me. This additional work will be performed under the terms and conditions of the Agreement between Client and Consultant, with letter of proposal dated October 10, 2013 and executed on December 4, 2013 by client and P&S.

Sincerely,

PENFIELD & SMITH

A handwritten signature in black ink, appearing to read "Derek Rapp", written in a cursive style.

Derek Rapp, T.E.
Transportation Department Manager



Exhibit "A"



TCLA, Inc. Landscape Architecture
Environmental Planning

Joe Varonin ASLA, - CA #1737 AZ #13616 NV #206 TX #1180
Harry Kobzeff ASLA CA #1777

■ **Corporate Office:**
27905 Smyth Drive
Valencia, CA 91355-4304
PH 661-702-1011
FX 661-702-0293

□ **Irvine Office:**
1360 Reynolds Ave. Suite 112
Irvine, CA 92614-5551
PH 949-250-1615
FX 949-250-1801

December 16, 2013

Mr. Derek Rapp, T.E.
Principal Engineer - Transportation Department Manager
Penfield & Smith
111 E. Victoria Street
Santa Barbara, CA 93101

Subject: Agreement for Landscape Architectural Services

Project: Avenue L and Challenger Roundabout
Lancaster, California

Dear Client:

We are pleased to submit the following landscape development agreement for your consideration. It is our understanding that the project site consists of the proposed Roundabout located at Avenue L and Challenger. Landscape Architects are required, by law, to have all contracts in writing (AB 3330, Chapter 438). The following contract meets those requirements.

1.0 INTENT OF WORK:

- 1.1 It is our understanding that our scope of work consists of Roundabout only as indicated on CAD and PDF files transmitted to our office in your e-mail dated 11-18-13.
- 1.2 We estimate approximately 1 basesheets at 1"=20'-0" scale.
- 1.3 We are presuming the following:
 - Our plans will be a part of your package
 - Our technical specifications will be in booklet format Our specifications will be in standard CSI format
 - All hardscape design other than mowstrips or other elements that support landscaping will be performed by others
- 1.4 Services specifically not included within this scope of work include the following:
 - Site precise grading and drainage
 - All civil and/or structural engineering fees

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 2

- All processing of plans and/or pick-up or delivery of plans
- Measuring or locating of existing site features
- Denoting of how water and electrical are being brought to the irrigation points of connection as shown on the irrigation plans. This work shall be performed by others.
- Project manual and all divisions other than landscape technical specifications shall be by others.

1.5 We estimate the time for Design Development documents to be approximately Two (2) weeks, and the time for Construction Documents to be approximately two (2) weeks, pending any scheduling conflicts or delays by others.

1.6

2.0 SCOPE OF SERVICES:

Our scope of our work will include the following services:

- 2.1 Establish procedures, liaison and work schedules
- 2.2 Collect and review all on- and off-site applicable data, planning and design criteria, as supplied by the Client.
- 2.3 Establish dialogue to ascertain client expectations.
- 2.4 After reviewing an approved engineer or architect's site plan, we will proceed on the following phases of work:
 - Design Development Phase
 - Construction Documentation Phase
 - Project Bidding Phase
 - Construction Observation Phase

3.0 DESIGN DEVELOPMENT PHASE

This phase consists of refining design concepts and elements. The plans representing this phase are denoted as "Preliminary Plans", and will include and illustrate the following:

- 3.1 Prepare base plans based on CAD file provided by Penfield & Smith
- 3.2 Coordination with P & S and City of Lancaster of initial requirements, materials and equipment to be used
- 3.3 Planting concepts
- 3.4 Irrigation concepts & proposed equipment for City to verify

Although the Preliminary Plan may be used to bid from, it does not have the detail to properly control the actual construction of the plan and/or details. Should the client decide to build the project from the Preliminary Plans and Details, he bears all responsibility for construction and by signing this proposal agrees to hold the Landscape

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 3

Architect harmless for any and all construction defects, errors, or omissions? The Contractor shall bear full responsibility for his own work.

4.0 CONSTRUCTION DOCUMENTATION PHASE

Following approval of the Design Development documents, we will proceed with the Construction Documentation Phase. This phase consists of preparing documents for bidding and/or construction and includes the following:

- 4.1 Irrigation Plan and Details per City Standards
- 4.2 City Water Conservation Package as required
- 4.3 Planting Plan and Details per City Standards
- 4.4 Landscape Technical Specifications only
- 4.5 Engineers Estimate
- 4.6 In-house plan check
- 4.7 We will provide the client with approved plans. TCLA, Inc. will amend plans at no additional cost to the Client should Revisions be necessary to bring the plans into conformance of previously established guidelines, provided TCLA, Inc. has obtained these guidelines at the outset of each phase from the Client. Once work has begun, any revisions to the plans due to changes, additions or deletions by other parties shall constitute additional services, and be invoiced accordingly.

5.0 BIDDING ADMINISTRATION PHASE

Upon acceptance of the Construction Documentation Phase by the Client, we will proceed with the Bidding Administration Phase. This phase will include the following:

- 5.1 Assist during the bidding process
- 5.2 Provide necessary prints to all parties at the Client's request. The cost of all printing shall be the Client's responsibility.
- 5.3 Answer all contractor questions; administer any addenda, clarifications, or submittal reviews necessary to bid plans.

6.0 CONSTRUCTION ADMINISTRATION PHASE

The Construction Documentation Phase consists of site visits and written "Item-Action" reports, which document the field condition observed during the visit. These visits shall be performed at the Client's discretion and fees for this service **are not** included in our lump sum fee in this proposal. If client would like us to provide a fee for this service, please advise us and we can provide an anticipated fee added on to the lump sum fee. Refer to "Construction Observation" section below for additional information. The following represent recommended minimum observations for this project.

- 6.1 Pre-construction conference with Contractor
- 6.2 Answer RFI's

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 4

- 6.3 Review Submittals
- 6.4 Coordination with client and contractors
- 6.5 Post-delivery of all plant materials to project location
- 6.6 Irrigation mainline pressure tests prior to burying mainline
- 6.7 Major plant layout prior to planting
- 6.8 Irrigation coverage tests prior to planting
- 6.9 Construction punch-list visit prior to start of Contractor's Maintenance Phase
- 6.10 Maintenance punch-list visit prior to final turnover to Owner
- 6.11 Certification of installation for X

7.0 FEES

The fee for Landscape Architectural services as outlined above will be performed on a lump sum basis as follows:

Drawing Fees:

- Design Development Phase \$1,180
 - Construction Documentation Phase \$3,535
- Sub-Total Drawing Fees: \$4,715
- Sub-Total Bidding Fees: \$ NC

Construction Observation Fee: Hourly upon request

Total Project Fee: **\$4,715**

8.0 LANDSCAPE ARCHITECTURAL SERVICES

8.1 Standard of Care

The Landscape Architectural Services shall be performed with care and diligence in accordance with the professional standards appropriate for a project of the nature and scope of the Project.

8.2 Coordination

The Landscape Architect shall coordinate the services of its consultants, and shall cooperate with the Client's representatives and separate consultants in the best interest of the project.

8.3 Representations

The Landscape Architect represents that it and its consultants have and shall maintain throughout the performance of the services under this Agreement the

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 5

requisite licenses, registrations, and/or certifications required for the performance of these services in the jurisdiction in which the project is located.

8.4 Supplemental Services

Supplemental Services are beyond the scope of the basic Scope of Services, and when requested in writing by the Client, shall entail additional compensation (either on the hourly basis stated herein, or on the basis of a negotiated sum) beyond the compensation stated in the Preliminary Provisions.

8.5 Approval of Services / Changes to Approved Services

The Landscape Architect shall proceed with a phase or design package of the Landscape Architect's services only after receiving the Client's written approval of the services and deliverables provided in the previous phase and written authorization to proceed with the next phase. Revisions to drawings or other documents shall constitute Supplemental Services when made necessary because of Client-requested changes to previously approved drawings or other documents, or because of Client changes to precious budget parameters and/or Program descriptions.

8.6 Opinions of Probable Construction Costs, (OPC's)

Opinions of probable construction costs provided by the Landscape Architect are based on the designer's familiarity with the landscape construction industry and are provided only to assist the Client's budget planning; such opinions shall not be construed to provide a guarantee or warranty of the actual construction costs at the time construction bids are solicited or construction contracts negotiated. Since the Landscape Architect has no control over the cost of labor, materials, equipment and/or the contractor's methods of determining bid prices, accordingly, the Landscape Architect cannot guarantee that bids or actual costs will not vary from his opinion. Unless expressly agreed in writing and signed by the parties, no fixed limit of construction costs is established as a condition of the Agreement by the furnishing of opinions of probable construction costs. Should the Client require further detailed cost information, it is recommended that the services of a professional cost estimator be procured.

8.7 Construction Safety

The presence of the Landscape Architect, its employees, or consultants at the Project site shall not be deemed an assumption by the Landscape Architect of any obligations, duties, or responsibilities for safety, including but not limited to construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, or coordinating the work of the Project in accordance with the Construction Documents or any regulatory health or safety requirements. The Landscape Architect, its employees, and consultants have no authority to exercise any control over any construction contractor, its employees, or subcontractors in connection with their work or health and safety programs and procedures.

9.0 CLIENT'S RESPONSIBILITIES

9.1 Program

The Client shall provide a detailed Project description with budget parameters.

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 6

9.2 Information

The Client shall provide site surveys and legal information, including as applicable; written legal description of the site, a land survey by a professional land surveyor who is licensed or registered under the law of the jurisdiction in which the property is located, rights-of-way, easements, encroachments, zoning, covenants, or deed or other restrictions.

The Client shall be responsible for all legal, accounting, and insurance services the Client may require or deem necessary in the interest of the Project.

9.3 Independent Testing

The Client shall provide independent testing services when deemed necessary to determine site conditions such as soil and subsoil conditions, water, pollution, and hazardous waste conditions.

9.4 Reliance

The Landscape Architect shall be entitled to rely on the accuracy and completeness of the information, test results and work product provided by the Client and the Client's consultants. The Landscape Architect shall not be responsible for calculations, specifications or designs based on erroneous, inaccurate or incomplete information provided by the Client.

9.5 Client's Representative

The Client shall designate a representative with authority to act on the Client's behalf with regard to the Project. If for any reason the Client's designated representative is replaced during the progress of the Project, the Landscape Architect shall have the right to renegotiate its compensation in response to the change.

9.6 Approvals

The Client's decisions, approvals, reviews and responses shall be communicated to the Landscape Architect in a timely manner so as not to delay the performance of the Landscape Architectural Services. Comments, if from a committee client or multiple interested entities, must be a consolidation of all comments in order to provide clear direction to the Landscape Architect and to avoid delays.

9.7 Notice of Nonconformance

If the Client observes or becomes aware of any errors, omissions or inconsistencies in any documents provided by the Landscape Architect or any fault or defect in the Project, the Client shall promptly give written notice thereof to the Landscape Architect.

9.8 Project Permits and Review Fees

The Client shall pay all fees required to secure jurisdictional approvals for the Project.

Exhibit "A"

10.0 OWNERSHIP OF DOCUMENTS

- 10.1 The Landscape Architect shall be deemed the author and owner of all deliverables provided to the Client, including but not limited to plans, drawings, specifications, construction documents, displays, graphic art, photographs and other images and devices of any medium, including electronic data or files, which are developed, created or derived pursuant to this Agreement by the Landscape Architect (collectively, the "Design Materials").
- 10.2 Subject to payment by the Client of all fees and costs owed to the Landscape Architect, the Landscape Architect grants to the Client a nonexclusive license to reproduce the Design Materials solely for the construction and use of the Project. Termination of this Agreement prior to the completion of the Project shall terminate this license; all Design Materials and copies thereof in the Client's possession or control shall be returned to the Landscape Architect within 21 days of the notice of termination.
- 10.3 The Client, to the fullest extent permitted by law, shall indemnify and hold harmless the Landscape Architect for any costs, including legal fees or defense costs, liability or losses which result from any unauthorized modification of the Design Materials or the use of the Design Materials for any purpose other than the Project.
- 10.4 In the event this Agreement is terminated prior to the completion of the Project, the Landscape Architect shall have no liability to the Client or to anyone claiming through the Client for any claims, liabilities, or damages resulting from the use, misuse or modification of the Design Materials without the Landscape Architect's approval, and the Client agrees to indemnify and defend the Landscape Architect against all such claims.

11.0 LANDSCAPE ARCHITECT COMPENSATION

- 11.1 Compensation for Landscape Architectural services performed under this Agreement shall be a stipulated sum plus Reimbursable Expenses as defined herein, and is subject to the provisions of the Agreement. Supplemental Services, when requested in writing by the Client, shall be compensated on an hourly basis at the rates provided in this section, or on the basis of a negotiated fee provided in an amendment to this Agreement. Hourly rates are good for the period of one year from this document date.

11.2 Hourly Rates:

- Managing Principal \$160.00/hour
- Principal In Charge \$140.00/hour
- Project Manager \$120.00/hour
- Job Captain \$85.00/hour
- Administrative Staff \$65.00/hour

12.0 REIMBURSABLE EXPENSES

- 12.1 Reimbursable expenses are expenditures for the Project made by the Landscape Architect, its employees and consultants in the interest of the Project plus an administrative fee of 10%. Reimbursable expenses include but are not limited to the following:

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 8

- All reproduction costs. All printing done by a professional reprographics company, costs of renderings, photographs, models, and mock-ups requested by the Client.
- All in-house plots, invoiced at \$9.00 per black-and-white plot, and \$37.00 per color plot.
- Costs for scanning plans that are not available on compatible computer disks.
- All postage and handling charges, faxes, messenger and overnight delivery services.
- Costs of printing and delivering bid packages.
- Services of professional consultants which cannot be quantified at the time of contracting (see Exclusions, below).
- If authorized in advance by the Client, overtime-related employee expenses.
- All travel expenses in connection with the Project; living expenses in connection with out-of-town travel, long distance communications.
- Expense of professional liability insurance dedicated exclusively to the Project, or additional insurance coverage or limits requested by the Client in excess of that normally carried by the Landscape Architect and its consultants.
- All revisions to previously approved plans including base sheet information by others.
- All additional services requested by others above and in addition to the scope of work listed above, and other similar direct Project-related expenditures.

13.0 PAYMENT SCHEDULE

- 13.1 The Landscape Architect will invoice monthly to the amounts denoted in the Fees section above. In lieu of retainer fees, payments shall be due at the time of presentation, upon acceptance by the Client. The Landscape Architect shall cease all work and will have no further obligation to perform any other items defined herein until payment is received. No documents may be released until all payments have been made current.

14.0 EXTENDED SERVICES

- 14.1 If through no fault of the Landscape Architect the Scope of Services as described above has not been completed within the term indicated in the Schedule of Services provided, the compensation for services rendered after that time period shall be renegotiated or shall be on the basis of the hourly rates provided herein.

15.0 INSURANCE

- 15.1 Upon acceptance of this proposal, TCLA, Inc. will provide proof of General Liability, Professional Liability and Automobile Insurance to the amounts required.
- 15.2 The Client and Landscape Architect each agree to indemnify and hold harmless the other, and their respective officers, employees, agents and representatives from and against liability for all claims, losses, damages and expenses including reasonable attorney's fees, to the extent such claims, losses, damages or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 9

joint or concurrent negligence of Client and Landscape Architect, they shall be borne by each party in proportion to its negligence.

- 15.3 The Landscape Architect and Client waive consequential damages for claims, disputes or other matters in question which arise out of or are related to this Agreement, including but not limited to consequential damages due to the termination of this Agreement by either party in accordance with the provisions herein.

16.0 LIMITATION OF LIABILITY

- 16.1 In recognition of the relative risks and benefits of the project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant, its officers, directors, partners, employees and sub consultants to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of the Consultant, its officers, directors, partners, employees and sub consultants to the Client shall not exceed \$5,000, or the Consultant's total fee for services rendered on this project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

17.0 DISPUTE RESOLUTION

- 17.1 If a dispute arises out of or relates to this Agreement, the parties shall endeavor to resolve their differences first through direct discussions between the parties or their representatives who shall have authority to settle the dispute. If the dispute has not been settled within 14 days of the initial discussions, the parties shall submit the dispute to mediation.
- 17.2 If the dispute is not settled, before recourse to any other dispute resolution procedure, the parties shall endeavor to settle the dispute by mediation under the current Construction Industry Mediation Rules of the American Arbitration Association. The location of the mediation shall be the location of the Project. A request for mediation may be filed with the American Arbitration Association or any other mediation service acceptable to both parties. The parties agree to conclude the mediation within 60 days of filing the request.
- 17.3 Unless otherwise agreed in writing, the Landscape Architect agrees to continue to perform its services during any dispute resolution proceedings. If the Landscape Architect continues to perform, the Client shall continue to make payments in accordance with this Agreement for amounts not in dispute.
- 17.4 Appropriate provisions for consolidation shall be included in other contracts relating to the Project so that all parties necessary to resolving a claim are parties to the same dispute resolution proceeding.
- 17.5 Unless otherwise agreed, the cost of mediation shall be shared equally by the parties.
- 17.6 Nothing in these provisions shall limit rights or remedies not expressly waived under applicable lien laws.

Exhibit "A"

18.0 CONSTRUCTION OBSERVATION

- 18.1 The Landscape Architect shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the Contractor's work and to determine if the work is proceeding in general accordance with the contract documents. These visits shall be at the discretion of the Client. The Client has not retained the Landscape Architect to make detailed inspections or to provide exhaustive or continuous project review and observation services. The Landscape Architect does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing and work on the project.

Should the Client desire more extensive project observation or full-time project representation, the Client shall request such services be provided by the Landscape Architect as Additional services in accordance to the terms of this Agreement.

19.0 EXCLUSIONS

Specifically excluded from the Landscape Architect's services are the following items, which shall be provided by others if required:

- 19.1 Base data and information necessary for the execution of Landscape Architectural services including but not limited to the following:
- Boundary and topographical surveys
 - Locations of all existing utilities, easements, structures, paving, trees or other pertinent site information
- 19.2 State, County Municipal and Project C.C. & R. requirements, guidelines, or other relative information directly affecting the Landscape Architectural work to the specific site.
- 19.3 Soils investigation and/or Analysis
- 19.4 Work outside that of the Landscape Architect's expertise and scope of work. This includes civil, mechanical, structural and electrical engineering services. Projects having hardscape elements such as concrete block, concrete work, retaining walls, wood structures etc., may require engineering review or drawings. The other consultants, upon approval of the Owner shall invoice the cost of this additional engineering to you.
- 19.5 Additional services made necessary by contractor default
- 19.6 All fees required for securing approval of agencies having jurisdiction over the project, (i.e., Plan Check Fees). The fees must be paid directly to the agency from the client. All processing of plans shall be by the Client.
- 19.7 All inspections, out of office meetings, showroom or material yard meetings, or selecting plant materials at nursery locations prior to shipping to site.

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 11

20.0 TERMINATION OF CONTRACT

- 20.1 This Agreement may be terminated by either party on seven (7) day's written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination, provided the defaulting party has not cured or in good faith diligently commenced to cure the breach during the seven (7) day notice period.
- 20.2 The Client's failure to make payments to the Landscape Architect in accordance with the provisions of their Agreement shall be deemed a substantial failure to perform and a cause for termination; however, in this circumstance the Landscape Architect, at its option, may elect to suspend its services on seven (7) days notice to the Client. The Landscape Architect shall have no liability to the Client for any delays caused by a suspension under this provision.
- 20.3 If the Client suspends the Landscape Architect's services for any reason, the Landscape Architect shall be compensated for all services performed to that date, and the Landscape Architect shall have no liability to the Client for any delays caused by the Client's decisions to suspend the services.
- 20.4 When suspended services are resumed, the Landscape Architect shall be compensated for expenses incurred by the interruption and resumption of the Landscape Architectural Services, and the Landscape Architect Compensation and the Schedule of Services for the services remaining to be performed shall be equitably adjusted.

21.0 OTHER TERMS AND CONDITIONS

21.1 Force Majeure

Either party shall be relieved of its obligations hereunder in the event and to the extent that performance hereunder is delayed or prevented by any cause beyond its control and not caused by the party claiming relief hereunder, including, without limitation, acts of God, public enemies, war, insurrection, acts or orders of governmental authorities, fire, flood, explosion or the recovery from such cause ("Force Majeure"). The parties agree to make all reasonable efforts to mitigate the delays and damages of Force Majeure.

21.2 Notices

Notices required pursuant to the Agreement shall be sufficient if delivered personally or by registered or certified mail, return receipt requested at the addresses indicated on the first page of this Contract.

21.3 Assignment

Neither party shall assign their interest in the Agreement without the express written consent of the other, except as to the assignment of proceeds.

21.4 Third Party Relationships

Nothing in this Agreement shall create a contractual relationship with, an obligation to, or a cause of action in favor of a third party against either the Client or the Landscape Architect.

Exhibit "A"

Mr. Derek Rapp, P & S
Proposal – Avenue L and Challenger Roundabout

December 16, 2013
Page 12

21.5 Severability

If any term or provision of this Agreement shall be found to be invalid or unenforceable, the remaining provisions shall, to the fullest extent permitted by law, remain in full force and effect.

21.6 Captions

Captions of articles, sections, paragraphs or subparagraphs of this Agreement are for convenience and reference only.

21.7 Governing Law

This Agreement shall be governed by the law in effect at the Landscape Architect's principal place of business.

21.8 Complete Agreement

This Agreement represents the entire understanding between the Client and the Landscape Architect and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement only may be amended in writing signed by both the Client and the Landscape Architect.

If the above constitutes a mutual understanding and agreement, please sign a copy of this proposal and return it to TCLA, Inc. We appreciate the opportunity to submit this proposal to you, and look forward to working with you on this Roundabout at Avenue L and Challenger in the City of Lancaster

Should you have any questions, please feel free to call us.

Cordially,

TCLA, Inc.

APPROVED AND ACCEPTED:



Joseph A. Varonin A.S.L.A.
President, Landscape Architect
CA#1777 AZ#13616 NV #206 TX#1180

Penfield & Smith

Date

EXHIBIT "B"

ADDITIONAL AUTHORIZATION NO. 1
PAYMENT CLAUSE

The City of Lancaster shall reimburse the CONSULTANT for actual costs, including labor costs and employee benefits incurred by the CONSULTANT in performance of the work. Additional Authorization No. 1, in an amount Not to Exceed \$4,715.00, for a total amount Not to Exceed \$79,015.00.

Actual costs shall not exceed the estimated wage rates and other costs as set forth in the CONSULTANT'S proposal. Source documentation supporting billed costs must be submitted with invoice. CONSULTANT shall provide a cost breakdown with hourly rates for each office and field function in the event that additional work is required beyond the not to exceed fee given. Any additional work will require a separate Authorization for Consultant Services signed by both parties.

Consultant shall not be reimbursed for actual travel expenses incurred in the performance of the work.



Hady Izadpanah, President
Penfield & Smith

EXHIBIT "A"

SCOPE OF SERVICES

The City shall authorize specific consulting services for capital projects by means of the attached "Authorization for Consultant Services." Each "Authorization for Consultant Services" shall specify all required activities, the time of completion, a not to exceed cost, a project identification name for purposes of invoicing, and the name of the Project Manager.

The Consultant shall maintain separate costs for each project and shall identify the costs specific to each project.

The work to be performed under this contract shall include:

SEE ATTACHED

NO. 2 – ADDITIONAL AUTHORIZATION FOR CONSULTANT SERVICES

TO: Hady Izadpanah, Senior Principal Engineer
Stantec Consulting Services, Inc.
111 East Victoria Street
Santa Barbara, CA 93101-2018

Under terms of our Professional Services Agreement dated November 18, 2013 you are authorized to proceed with the following consulting services:

Project Name: PWCP 11-019 (13-027) – Avenue L and Challenger Way Roundabout

Original Authorization: \$79,015.00

This Authorization: \$13,987.50

Total Not To Exceed: \$93,002.50

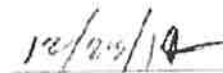
Date Required: January 30, 2015

Project Manager: Stephen Carrillo

ACCEPTED:



Hady Izadpanah, Senior Principal Engineer
Stantec Consulting Services, Inc.


Date

AUTHORIZED:


Carlyle S. Workman
Public Works Manager

7-1-15
Date

SC:pjp

EXHIBIT "A"

SCOPE OF SERVICES

The Consultant shall maintain separate costs for each project and shall identify the costs specific to each project.

The work to be performed under this contract shall include:

SEE ATTACHED

Exhibit "A"



Stantec Consulting Services Inc.
111 East Victoria Street
Santa Barbara CA 93101-2018
Tel: (805) 963-9532
Fax: (805) 966-9801

W.O. 21160.01

December 1, 2014

Via Email: scarrillo@cityoflancafterca.org

Stephen Carrillo, P.E.
Assistant Engineer
City of Lancaster
Development Services Department
615 Avenue H
Lancaster, CA 93534

SUBJECT: Avenue L and Challenger Roundabout – Additional Services Request

You have indicated that there has been a change to the design concept for the central island that includes:

- Removal of previously proposal tree
- Installation of an as yet unspecified work of public art
- Design of electrical stub-out

We have completed the design as originally scoped and have exhausted our authorized fee for this work. We are requesting an additional authorization for work required to accomplish the revised goals for this project.

SCOPE OF WORK

Landscape

1. Revise Planting and Irrigation Plans to remove proposed tree and reconfigure landscaping and irrigation to accommodate public art piece(s).

Electrical

1. Attend kick off meeting to confirm scope of electrical design.
2. Perform one site investigation to verify plans and existing conditions.
3. Identify critical issues impacting the project.
4. Review potential lighting/electrical requirements with City.
5. Coordinate with utility company (SCE) for service.
6. Participate in conference call with project team.
7. Locate and size major electrical components.

Exhibit "B"



December 01, 2014
Stephen Carrillo
Page 3 of 3

Reference: Avenue L and Challenger Roundabout

AUTHORIZATION

Should you require additional information or wish to discuss this proposal further, please contact me. If the proposal is satisfactory, please sign below where indicated to authorize the additional scope and fee. This additional work will be performed under the terms and conditions of the Agreement PWCP 11-019 between the City of Lancaster and Penfield & Smith.

Sincerely,

PENFIELD & SMITH NOW STANTEC

Derek Rapp, T.E.
TR 2026
Transportation Department Manager | Principal
Engineer

David W. Rundle, P.E.
RCE 48540
Principal Engineer

DBR/zm

Enclosures

Document2

NO. 3 – ADDITIONAL AUTHORIZATION FOR CONSULTANT SERVICES

TO: Hady Izadpanah, Senior Principal Engineer
Stantec Consulting Services, Inc.
111 East Victoria Street
Santa Barbara, CA 93101-2018

Under terms of our Professional Services Agreement dated November 18, 2013 you are authorized to proceed with the following consulting services:

Project Name: PWCP 11-019 (13-027) – Avenue L and Challenger Way Roundabout

Original Authorization: \$ 74,300.00

Authorization No. 1: \$ 4,715.00

Authorization No. 2: \$ 13,987.50


This Authorization: \$ 35,795.00

Total Not To Exceed: \$128,797.50

Date Required: February 29, 2016

Project Manager: Stephen Carrillo

ACCEPTED:



Hady Izadpanah, Senior Principal Engineer
Stantec Consulting Services, Inc.

1/5/14

Date

AUTHORIZED:

Carlyle S. Workman, PE
Public Works Manager

Date

SC:pjp

"EXHIBIT A"



September 8, 2015
File: 2064021160

Attention: Stephen Carrillo, Project Manager
Public Works Department
Capital Engineering Division
615 West Avenue H
Lancaster, CA

Dear Stephen,

Reference: PWCP 11-019 Avenue L and Challenger Way Roundabout – Additional Services for Before and After Performance Study

PROJECT UNDERSTANDING

The City will be constructing the first roundabout in the City at Avenue L and Challenger Way. Roundabouts are gaining popularity in the United States due to their documented benefits over more traditional intersection controls, such as traffic signals. The reported benefits include:

- Reduced vehicle queues/delays
- Reduced collision severity
- Reduced speeds
- Improved pedestrian access

The City desires to collect some information on the relative effectiveness of this roundabout in achieving the reported benefits. To this end, we propose the following tasks.

ADDITIONAL SCOPE OF SERVICES

Task 1 – Existing Traffic Conditions

1. Collect one (1) week (Monday through Sunday) of 24 hour counts on all intersection approaches, approximately 1,000' upstream from the intersection. Counts will include volume, speed and vehicle classification. Counts should be collected before signs warning of upcoming construction are posted and should be conducted during a time of year that represents typical traffic conditions.
2. Conduct video surveillance of each intersection approach for the same one (1) week period. The video will serve as a record of intersection conditions from which we can derive:
 - a. Peak hour turning movement counts
 - b. Maximum queue lengths.

Design with community in mind

"EXHIBIT A"



September 8, 2015
Stephen Carrillo
Page 2 of 4

Reference: PWCP 11-019 Avenue L and Challenger Way Roundabout – Additional Services for Before and After Performance Study

- c. Peak pedestrian counts
 - d. Average peak hour vehicle delay
 - e. Average peak hour pedestrian delay
3. Review 3 year intersection collision history and summarize collisions by primary collision factor, direction, time of day, severity, etc.
 4. Prepare summary of existing traffic conditions report, including video recording for future comparison.

Task 2 – Post Project Conditions

1. Collect one (1) week (Monday through Sunday) of 24 hour counts on all intersection approaches. Counts will be taken in the same location and same time of year, if not same week as the pre-project counts.
2. Conduct video surveillance of each intersection approach for the same one (1) week period. The video will serve as a record of intersection conditions from which we can derive:
 - a. Peak hour turning movement counts
 - b. Maximum queue lengths.
 - c. Peak pedestrian counts
 - d. Average peak hour vehicle delay
 - e. Average peak hour pedestrian delay
3. Review post project completion collision data. It should be noted that less than one (1) year of collision data is not a fair evaluation of a roundabout's collision performance. We recommend at least three (3) years of data be evaluated in order to get a clearer safety picture. Nonetheless, we will review the data and report the preliminary findings.
4. Prepare summary of post project traffic conditions report, including video recording for future comparison. Report will include comparisons of pre and post project performance measures and provide engineering analysis of roundabout benefits and/or perceived shortcomings, along with recommendations for improvement.

EXHIBIT "B"

ADDITIONAL AUTHORIZATION NO. 3
PAYMENT CLAUSE

The City of Lancaster shall reimburse the CONSULTANT for actual costs, including labor costs and employee benefits incurred by the CONSULTANT in performance of the work for Additional Authorization No. 3, in an amount not to exceed \$35,795.00, for a total amount not to exceed \$128,797.50.

Actual costs shall not exceed the estimated wage rates and other costs as set forth in the CONSULTANT'S proposal. Source documentation supporting billed costs must be submitted with invoice. CONSULTANT shall provide a cost breakdown with hourly rates for each office and field function in the event that additional work is required beyond the not to exceed fee given. Any additional work will require a separate Authorization for Consultant Services signed by both parties.

Consultant shall not be reimbursed for actual travel expenses incurred in the performance of the work.



Hady Izadpanah, Senior Principal Engineer
Stantec Consulting Services, Inc.

Original Contract Amount:	\$74,300.00
Additional Authorization No. 1 Amount:	\$ 4,715.00
Additional Authorization No. 2 Amount:	\$ 13,987.50
Current Additional Amount:	\$35,795.00
Total Amount Not To Exceed:	\$128,797.50

"EXHIBIT B"



PROPOSED ADDITIONAL FEE

Our services will be performed on a "time and materials" basis, not to exceed and shall be billed monthly at the rates then currently in effect. We estimate that the fees required for our additional services will be as follows:

Reference: PWCP 11-019 Avenue L and Challenger Way Roundabout – Additional Services for Before and After Performance Study

Task 1

Data Collection -	\$14,145
Data Analysis -	\$1,345
<u>Summary Report -</u>	<u>\$1,745</u>
	\$17,235

Task 2

Data Collection -	\$14,145
Data Analysis -	\$1,345
<u>Summary Report -</u>	<u>\$3,070</u>
	\$18,560

TOTAL \$35,795

This brings the total contract amount to \$128,797.50. Our charges will not exceed the above fee estimate without your prior authorization.

We have estimated the cost of our services based on our understanding at this time of the scope and complexity of the work. However, please note that during the performance of our services, the need for additional or expanded services may be determined. We will keep you informed of our progress and shall require your authorization for services that exceed the scope and/or fee estimate limits.

AUTHORIZATION

Should you require additional information or wish to discuss this proposal further, please contact me. This additional work will be performed under the terms and conditions of the Agreement between Client and Consultant, with letter of proposal dated October 10, 2013 and executed on December 4, 2013.

"EXHIBIT B"



September 8, 2015
Stephen Carrillo
Page 4 of 4

Reference: PWCP 11-019 Avenue I and Challenger Way Roundabout – Additional Services for Before and After Performance Study

Regards,

Stantec Consulting Inc.

A handwritten signature in black ink, appearing to read "Derek Rapp".

Derek Rapp
Senior Project Manager
Phone: (805) 963-9538 x.157
Fax: (805) 966-9801
Derek.Rapp@stantec.com

Attachment: NDS Data Collection Estimate
Rate Sheet