

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this "AGREEMENT") is made and entered into this ____ day of _____, 20____, by and between the CITY OF LANCASTER, a municipal corporation and charter city (the "OWNER"), and STANTEC CONSULTING SERVICES, INC., (the "CONSULTANT").

RECITALS

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

**RFP NO. 631-16 – PREPARE HYDROLOGY AND HYDRAULICS ANALYSIS;
ENVIRONMENTAL DOCUMENT (ED); PLANS, SPECIFICATIONS, AND ESTIMATES
(PS&E)
for
AVENUE K-12 AND 5TH STREET EAST ET AL.
(DRAINAGE AND STREET IMPROVEMENTS)**

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: Stantec Consulting Services, Inc.

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 Development Services
 City of Lancaster
 44933 North Fern Avenue
 Lancaster, California 93534

CONSULTANT Hady Izadpanah, Senior Principal Engineer
 Stantec Consulting Services, Inc.
 111 East Victoria Street
 Santa Barbara, CA 93101

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 Request for Proposal – RFP No. 631-16 and 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 AGREEMENT consisting of 26 pages
- Second: Request for Proposal – RFP No. 631-16
- Third: 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 consistent with that degree of skill and care ordinarily exercised by members of the same profession currently practicing under similar conditions in the same or similar location, all work and services set forth in Exhibit “A”. The Development Services Director 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 Development Services Director, 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 \$196,520.00. 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.

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. **Senate Bill 854.**

SB 854 bill signed into law on June 20, 2014, established a new public works contractor registration program to replace prior Compliance Monitoring Unit (CMU) and Labor

Compliance Program (LCP) requirements for bond-funded and other specified public works projects. The Department of Industrial Relations (DIR) requires all contractors and subcontractors who bid or perform work on a public works project (as defined under the Labor Code) be subject to a registration and annual renewal fee. Contractors must apply online and meet minimum qualifications to be registered as eligible to bid and work on public works projects. The requirement to list only registered contractors and subcontractors on bids becomes effective on March 1, 2015. The requirement to only use registered contractors and subcontractors on public works projects applies to all projects awarded on or after April 1, 2015. **This project shall comply with the requirement of SB 854.**

Coverage is not limited only to work performed at the construction site by the traditional construction trades, but extends broadly to workers employed “in the execution of” the public works contract.

Survey and Geotechnical Services will only need to register if the scope of services provided would require the payment of prevailing wage and be considered to be covered under the *California Labor Code*. Even though survey and geotechnical services typically are viewed as consultants and generally do not necessarily fit the term “contractor,” compliance with section SB 854 will be required by the Department of Industrial Relations (“DIR”). Essentially, if the services provided by a survey or geotechnical services firm would be considered to be covered under the applicable *California Labor Code* sections, then they should register. It should be noted that only the firm needs to register and not individual licensed design professional(s).

Attention is directed to the revisions to Labor Code Section 4. 1725.5 and Section 5. 1771.1:

A. SECTION 4 1725.5

“A contractor (consultant) must be registered pursuant to this section in order to be qualified to bid on, be listed in a bid proposal pursuant to Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work that is subject to requirements of this chapter.

(a) To qualify for registration under this section, a contractor must do all of the following:

(1) Beginning July 1, 2014, register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial non-refundable application fee of \$300 to qualify for registration under this section and an annual renewal fee on or before July 1st each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(2) Provide such evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Worker’s Compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker who the contractor will employ to perform work that is subject to prevailing wage requirements other than a contractor who, is separately registered under this section. Coverage may be evidenced by a current and valid Certificate of Workers’ Compensation Insurance or Certification of Self-Insurance required under Section 7125 of the Business and Professions Code.

(B) Where applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages, or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months, or since the effective date of the requirements set forth in subdivision (f), whichever is shorter. For a contractor found to be in violation of the requirements of this paragraph only, the period of disqualification shall be waived if: (i) the contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months; and (ii) the contractor pays an additional non-refundable penalty registration fee of \$2,000.

- (b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established pursuant to Section 1771.3 and shall be used only for the purposes specified in subdivision (b) of Section 1771.3
- (c) The term “contractor,” as used in this section, shall include any subcontractor or “consultant”, as defined in Section 1722.1.
- (d) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. A contractor who inadvertently fails to pay the renewal fee may retroactively renew its registration by paying an additional non-refundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the date of the renewal fee.
- (e) The requirements of this section shall not apply with respect to any contract, which as a result of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or decision by a court that classifies, after the time at which the body awarding the contract accepts the contractor’s bid or awards the contractor a contract, the work covered by the bid or contract as a “public work,” as defined in this chapter, to which Section 1771 applies, provided that:
 - (1) The body awarding the contract failed to identify as a public work, in the bid specification or in the contract documents that portion of the work that the determination or decision classifies as a “public work.”

- (2) Within twenty (20) days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.
- (3) The requirements of this section shall apply prospectively only to any bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2) of this subdivision.
- (f) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work, as defined in this chapter, entered into on or after April 1, 2015.”

B. SECTION 5 1771.1

- (a) No contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal pursuant to Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered to perform public work pursuant to Section 1725.5. It shall not be a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Sections 10164 or 20103.5 of the public work pursuant to Section 1725.5 at the time the contract is awarded.
- (b) Notice of this requirement shall be included in all bid invitations and public works contracts, and no bid shall be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor’s current eligibility to perform public work pursuant to Section 1725.5.
- (c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following requirements are met: (1) the subcontractor is registered prior to the bid opening; (2) within 24 hours after the bid opening the subcontractor is registered and has paid the penalty registration fee specified in paragraph (E) of subdivision (2) of Section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.
- (d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) of this Section shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.
- (e) The DIR shall maintain on its website a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.
- (f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation. However, no contract for public work shall be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

- A. This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. **This project shall comply with the requirements of SB 854.**

10. **Payment of Prevailing Wage.**

A. The State of California, Department of Industrial Relations, has ascertained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension, and similar purposes applicable to the field work to be done. These rates shall be the minimum wage rates for this project. These rates are on file with the City of Lancaster and copies will be made available to any interested party upon request.

Attention is directed to the provisions of Section 1777.5 (Chapter 1411, Statutes of 1968) and Section 1777.6 of the Labor Code concerning the employment of apprentices by the CONSULTANT or any subcontractor under him.

Section 1777.5, as amended, requires the CONSULTANT or subcontractor employing tradesmen in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen that will be used in the performance of the contract. The ratio of apprentices to journeymen in such cases shall not be less than one to five except:

- (A) When unemployment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15% in the 90 days prior to the request for certificate; or
- (B) When the number of apprentices in training in the area exceeds a ratio of one to five; or
- (C) When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis statewide or locally; or
- (D) When the CONSULTANT provides evidence that he employs registered apprentices on all of his contracts on an annual average of not less than one apprentice to eight journeymen.

The CONSULTANT is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other Contractors on the public works site are making such contributions.

The CONSULTANT and any subcontractor under them shall comply with the requirements of Section 1777.5 and Section 1777.6 in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

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 Prevailing Wage provisions of this Section.

11. **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.

12. **Hold Harmless and Indemnification.** CONSULTANT agrees to indemnify and hold harmless the OWNER, its officers and employees, from and against any and all losses or liabilities whatsoever, including reimbursement of reasonable Attorney's fees, incurred in to the extent arising out of CONSULTANT'S negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. CONSULTANT agrees to reimburse reasonable defense costs and attorney's fees of OWNER, it officers and employees, as part of damages to the extent arising from any negligent or wrongful acts, errors or omissions on the part of CONSULTANT or on the part of its employees.

13. **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 Development Services Director and CONSULTANT.

14. **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.

15. **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 contingent upon CONSULTANT's receipt of payment in full for services rendered up to the date of termination. 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.

16. **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 15.

E. In addition, CONSULTANT may terminate this Agreement upon giving OWNER ten (10) calendar days prior written notice for any of the following: (1) breach by OWNER of any material term of this Agreement, including but not limited to Payment Terms; (2) transfer of ownership of the project by OWNER to any other persons or entities not a party to this Agreement without the prior written agreement of the CONSULTANT; (3) material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes; (4) suspension of the Project or the CONSULTANT's services by OWNER for more than ninety (90) calendar days, consecutive or in the aggregate.

17. **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.

18. **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:

Commercial General Liability

Each Occurrence	\$2,000,000
Per Project General Aggregate	\$5,000,000
Including Products/Completed Operations	
Including Contractual Liability/Independent Contractors	
Including Broad Form Property Damage	
XCU Coverage Must Not Be Excluded	

Commercial Automobile Liability

Combined Single Limit per Accident for Bodily Injury and Property Damage	\$5,000,000
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Workers Compensation

As Required by the State of California	Statutory Limits
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Employer's Liability

Each Accident	\$1,000,000
Bodily Injury by Disease	\$1,000,000
Each Employee	\$1,000,000

Professional Liability

Each Occurrence	\$5,000,000
General Aggregate	\$5,000,000

B. Insurance shall be at least as broad as ISO form CG2010 11/85, CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations. Commercial Automobile coverage shall be at least as broad as ISO form CA00 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 (except Professional Liability and Worker's Compensation/Employer's Liability) 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.

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 except after 30 days prior written notice (10 days written notice for non-payment) by U.S. First Class Mail to the City of Lancaster. Consultant shall provide thirty (30) days written notice to City prior to implementation of a reduction of limits or material change of insurance coverage as specified herein.

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

RFP No. 631-16 – Avenue K-12 and 5th Street East Et Al.

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 their officers, 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
44933 Fern Avenue
Lancaster, California 93534

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.

19. **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 Development Services Director 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.

20. **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 15.

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.

21. **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, subject to the terms outlined herein, become 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.

Notwithstanding the foregoing, the OWNER acknowledges the CONSULTANT's construction documents, including electronic files, as the work papers of the CONSULTANT and the CONSULTANT's instruments of professional service. Nevertheless, the final construction documents prepared under this Agreement shall become the property of the OWNER upon completion of the services and payment in full of all monies due to the CONSULTANT. The OWNER shall not reuse or make any modification to the construction documents without the prior written authorization of the CONSULTANT. The OWNER agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the CONSULTANT, its officers, directors, and employees (collectively, CONSULTANT) against any damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the construction documents by the OWNER or any person or entity that acquires or obtains the construction documents from or through the OWNER without the written authorization of the CONSULTANT. In the event that CONSULTANT's services are terminated in accordance with this agreement, this provision shall also apply to documents delivered to OWNER after such termination. Such delivery shall be contingent upon payment in full of all monies then due CONSULTANT for services provided up to the date of termination. Under no circumstances shall the transfer of ownership of the CONSULTANT's drawings, specifications, electronic files or other instruments of service be deemed a sale by the CONSULTANT, and the CONSULTANT makes no warranties, either express or implied, of merchantability and fitness for any particular purpose.

22. **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".

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

CONSULTANT warrants and represents to OWNER as follows:

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.

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.

25. **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" Term, Payment and Time for Commencement and Completion Clause

26. **Governing Law.**

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

27. **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: _____
Jeff Hogan, Development Services Director

Dated: _____

By: _____
Mark V. Bozigian, City Manager

Dated: _____

"CONSULTANT"
STANTEC CONSULTING SERVICES, INC.

By: _____
Hady Izadpanah, Senior Principal Engineer

Dated: _____

ATTEST:

Britt Avrit, 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

APPENDIX A
EXHIBIT A: SCOPE OF SERVICES

EXHIBIT A: SCOPE OF SERVICES

The State of California, Department of Industrial Relations, has ascertained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension, and similar purposes applicable to the field work to be done, including mapping and surveying, geotechnical investigation, traffic control and potholing services. Per Labor Code Section 1720, these rates shall be the minimum wage rates for these portions of the project. These rates are on file with the City of Lancaster and copies will be made available to any interested party upon request.

SB 854

SB 854 bill signed into law on June 20, 2014, established a new public works contractor registration program to replace prior Compliance Monitoring Unit (CMU) and Labor Compliance Program (LCP) requirements for bond-funded and other specified public works projects. The Department of Industrial Relations (DIR) requires all contractors and subcontractors who bid or perform work on a public works project (as defined under the Labor Code) be subject to a registration and annual renewal fee. Contractors must apply online and meet minimum qualifications to be registered as eligible to bid and work on public works projects. The requirement to list only registered contractors and subcontractors on bids becomes effective on March 1, 2015. The requirement to only use registered contractors and subcontractors on public works projects applies to all projects awarded on or after April 1, 2015. **This project shall comply with the requirement of SB 854.**

The tasks, described herein, are not intended to be comprehensive nor exclusive; they are merely set forth as a general outline of the work that is expected.

TASK 1 PROJECT ADMINISTRATION AND MANAGEMENT

The Consultant will schedule meetings (in person, web, or conference call) with the City and design team to provide feedback during the project; maintain schedule; provide a single Project Manager (PM) to coordinate with Capital Engineering PM, other City Departments/Divisions, each task lead/designer, utilities, etc. to deliver a complete consolidated plan set and specification sections that are consistent and do not conflict between improvements; and implement QA/QC measures.

1.1 Meetings

- **KICK-OFF MEETING**

Kick-off meeting will be held shortly after the issuance of the Notice to Proceed, with the successful firm at the City of Lancaster Maintenance Facility, 615 West Avenue H, Lancaster, California 93534. City Project Manager will provide information, answer any questions, and confirm a workable project schedule. This meeting will serve to establish project requirements and to document input in developing the final design and the construction documents. The meeting will also be used to clarify the lines of communication and other administrative details.

○ PROGRESS MEETINGS

For the basis of this proposal, the Consultant shall assume two progress meetings at the 60% and 90% PS&E submittal stage. Conference calls may be employed in lieu of face to face progress meetings.

All other status updates shall be facilitated through conference calls and emails. The Consultant shall maintain a list of action items from progress meetings and other communications with projected completion dates and shall use this as a basis for monthly updates. The Consultant shall send current action item list via e-mail to the City staff three (3) working days prior to each progress meeting.

1.2 Project Management

Consultant will maintain the project schedule and provide bi-monthly (*two times a month*) project status reports throughout the duration of the project. The reports are critical to forecast resource needs and ensure the appropriate staff and support services are available, when needed, to deliver the project on schedule and within budget. Consultant shall notify the Project Manager of any scope, schedule or budget issues that may arise. The Consultant shall prepare and maintain a critical path schedule for the project.

The Consultant will establish and apply internal accounting methods and procedures acceptable to the City for documenting and monitoring contract costs. The Consultant shall include with the monthly invoice a progress report that reflects the work completed within the invoice period. Payments to the Consultant are for incurred costs.

1.3 Quality Assurance & Quality Control

Consultant must provide quality assurance and control of survey, design plans, specifications, and estimates prior to each submittal. This task is required to verify no unsafe design changes have been made or proposed, geometric layout has not been critically altered, improvement goals are being met, economy of project is maintained, plans are consistent across improvements and there are no conflicts between trades, and construction integrity of the design is ensured.

TASK 2 FINAL DESIGN, PLANS, SPECIFICATIONS AND ESTIMATES (PS&E)

The final design for each of the four intersections in this project shall include all the tasks necessary for a construction ready project, including design surveys, preparation of plans, specifications and estimates, right-of-way engineering, utility coordination and all permitting.

2.1 Design Standards

Deviations from City standards shall be indicated and any exceptions shall require approval by the City. The intent of the project is to meet all standards where feasible. If there are additional non-standard design features, approval must be obtained by the City.

The basic design features that must be identified include: lane width; shoulder width; design speed; cross slope; grade; and stopping sight distance. It is understood that improvements will match to the existing road profiles.

2.2 Design Surveys

The Consultant shall perform design surveys necessary to support the preparation of the PS&E documents. At a minimum the Consultant shall:

- Field locate vertical and horizontal controls (Monuments and Benchmarks).
- Perform survey for topographic mapping purposes within the project limits described. The survey will include visible surface features including but not limited to pavement, curbs and gutters, pavement edges, medians, as well as topographic features (e.g. tops, toes, flow lines, etc.).
- Perform centerline control survey. All centerline intersections, beginning and ending curves and major control points shall be found (or established if not existing) and measured. If a point must be reset to establish the centerline, a corner record and/or record of survey must be filed with the County for all set points and a copy returned to the City.
- Cross sections shall be prepared at a 1"=40' scale at 100' intervals and corner cross-sections at BCR, ECR, and quarter deltas.
- Locate existing above ground utilities (e.g. meters, valves, backflow devices, primary irrigation facilities, manholes, inlets, drains, hydrants, utility poles, etc.).
- Locate existing signs and locate/measure existing striping.
- Download and compute survey data and prepare an editable AutoCAD drawing file. The mapping will be compiled at a scale of 1"=40' with a 1-foot contour interval. Each surveyed feature will be clearly labeled or noted by symbol as identified in the field.

2.3 Geotechnical Investigations

It is the Consultant's responsibility to identify the need for geotechnical investigation and testing in support of their design. **For the purpose of your proposal, assume ten (10) boring/coring locations to identify existing pavement section and R-value data for use in pavement recommendations.** The Geotechnical results shall be well documented and presented in a report in accordance with the City of Lancaster Engineering Design Guidelines. Boring logs shall note recommendations for new pavement structural sections, thickness of existing asphalt concrete pavement and thickness of existing pavement section aggregate base.

2.4 Utilities

2.4.1 Existing Utilities Research and Coordination

- The Consultant shall conduct existing utility research for all utilities within the project limits to identify, locate, and accurately layout all of the underground improvements. The Consultant shall prepare Utility Plan sheets at a scale of 1"=40', depicting all known existing utility facilities from record research and field verification. Dimensions are to be shown in English units.
- The Consultant shall provide preliminary notification letters to the utilities and request current information. The Consultant shall provide additional notification letters to the utilities and/or call utilities, as necessary, until a written response is received from the utility. The Consultant is responsible to complete and mail the documents, and provide the City with a copy.
- The Consultant shall survey the height of the existing overhead utility lines for traffic signal and street light clearance.
- The Consultant shall coordinate with the utility companies regarding the Project related to modifications of their facilities. The Consultant shall determine special requirements for facilities including protection, relocation, ROW, easements, and construction.

2.4.2 Utility Potholing

The Consultant shall positively locate all utilities in accordance with underground utilities to determine the depth for clearance and connection points or conflicts for any underground improvements, such as gas lines, sewer lines, storm drains, or water lines. The Consultant shall submit to each utility company a preliminary set of plans that provide the location, elevation of the utility, and the elevation of the improvement, with the conflict area clouded to show the utility companies the areas of conflict with the proposed improvement. Potholing information and plan shall be submitted to the City after completion of this task. **For the purpose of your proposal, assume six (6) pothole locations.** The Consultant prepared base mapping shall reflect the existing utility locations and depths, and propose any necessary utility relocation on plans.

2.4.3 Utility Relocations

The Consultant shall coordinate all utility relocations. The Consultant shall provide Second Utility Notification Letters (Prepare to Relocate) and Third Utility Notification Letters (Notice to Relocate). If necessary, the Consultant shall provide Fourth Utility Notification Letters (Notice to Relocate Immediately) and/or call utilities, as necessary, until a written response is received from the utility.

2.5 Permits

The Consultant shall be responsible for determining what permits are required to construct the project. Consultant shall prepare for the City's signature any required permits from State or Federal agencies and other entities. The Consultant shall coordinate; obtain resource agency

permits, agreements, and/or approvals. The Consultant shall also prepare for the City's signature permits to enter and any other necessary permits from landowners for all research, such as surveying, geotechnical, and any other design-related work.

2.6 ROW

Presently there are no ROW needs identified for this project.

2.7 Environmental Document

The Consultant shall provide all necessary services for the Environmental Documentation to meet CEQA requirements.

2.8 Final Design Plans, Specifications and Estimates

2.8.1 Plans

Consultant shall prepare 30%, 60%, 90%, 100% and Final Plans, in accordance with City submittal and plan preparation requirements. Final Plans shall include title sheet; sections and details sheet; demolition sheet; plan and profile sheets; construction details; storm drain plans; conflicting utility plans; signing, striping and marking plans; and, traffic control plans.

Bid quantities shall be identified for each plan sheet at the 60%, 90%, 100% and Final Plan stages for review by City staff.

The consultant will submit stamped and signed mylars and estimates amended to address any minor City comments for the project for advertisement (Bid Package).

2.8.2 Specifications

The City shall prepare the main body of the specifications (boiler plate); specifications expected from the Consultant shall be limited to details, cut sheets and written specifications beyond those provided in the Green Book.

2.8.3 Cost Estimate

The Consultant shall compile and prepare the Cost Estimate based on all biddable construction items identified throughout the design package and consistent with the latest City bid forms. The estimated quantities shall be arranged in chronological order of construction and shall contain all of the information needed to prepare the Engineer's Estimate of Costs. Contingencies shall be included at the appropriate percentages agreed by the City.

The Consultant shall be required to periodically submit updated cost estimates per City's request. The Consultant's final construction cost estimate shall be based upon, and in agreement with, the final estimated quantities. Computations showing estimated quantities and costs for each location of work, as well as the sum totals, shall be submitted to the City for review. Submission of

computations does not relieve the Consultant's responsibility for submitting an accurate estimate of quantities.

2.8.4 Submittal Requirements

The Consultant shall submit plans at 60%, 90% and 100% and plan stages for City review. Submittals shall include an electronic submittal with plan sheets in a single file.

The Consultant shall submit the design drawings with along with the previous check prints for each submittal. The design drawings should be as complete, accurate, and error-free as possible before plan checking is considered to reduce the number of plan checks required and related costs to the City, and Consultant. Likewise for reports, special provisions, cost estimates, etc., the Consultant shall submit the documents electronically along with one hard copy document to the City for review.

The Consultant shall, at no additional cost to the City, correct errors, omissions, and unworkable and/or improper design/drafting on the original drawings that are covered subsequent to the completion of the plan checking process.

The Consultant shall directly submit Plans to the utilities for review of conflicts (minimum of two utility notifications).

The City shall receive a copy of all transmittals, submittals, and letters sent to utilities and agencies regarding the Project.

Reports, Plans, Specifications, and Estimate shall be in English units and must conform to City standards, regulations, policies, procedures, manuals, and practices. The Consultant shall provide clear, concise, and complete Plans. The Consultant shall include other details that are of benefit to and/or requested by the City, such as details of private improvements to be constructed, reconstructed, or relocated, consisting of driveways, fences, etc.

All drawings shall be prepared in AutoCAD. The final drawings are to be considered to be the property of the City at all times and shall be submitted to the City in hardcopy, along with electronic files (both in PDF and DWG format), upon completion or as otherwise directed by the City.

Cross sections are considered necessary to properly and accurately design the improvements and to accurately establish the earthwork volumes and extent of construction or reconstruction beyond the ROW lines onto private property, where and if necessary. Cross sections shall be prepared at a scale and frequency discussed above.

The cut and fill quantities shall be computer generated and shall be included with the cross sections. The cross sections shall be provided to the City at the same time as the final plans, which will both be part of the approved final plans.

TASK 3 DELIVERABLES

The Consultant shall submit to the City the following deliverables in both electronic format (PDF) and hard copies:

- 3.1 Project Administration and Management Deliverables
 - a. Meeting agendas and minutes
 - b. Record of any utility meetings and coordination calls
 - c. Utility notifications letters
 - d. Detailed project schedule

- 3.2 Design Survey
 - a. One (1) PDF plot of topographic mapping
 - b. Deliverables in hardcopy and electronic format as detailed in the Capital Program Division Standards for CAD Deliverables
 - c. PDF copies of all research maps and utility information collected

- 3.3 Potholing
 - a. PDF copies of all potholing documents, reports, photos and correspondence

- 3.4 Geotechnical
 - a. PDF copies of all geotechnical documents, test data, reports, field samples, photos and correspondences

- 3.5 PS&E
 - a. Utility base map
 - b. 30% Plans
 - c. 60% Plans, Specifications and Estimate
 - d. 90% Plans, Specifications and Estimate
 - e. Editable AutoCAD drawings (AutoCAD 2013 or not lower than 2007), WORD (Specifications) and EXCEL (estimate) files (100% bid version)
 - f. 100% (FINAL) Plans, Specifications and Estimate – Unsigned PDFs
 - g. 100% (FINAL) Plans, Specifications and Estimate – Stamped and signed

EXHIBIT "B"

TERM, PAYMENT AND TIME FOR COMMENCEMENT AND COMPLETION CLAUSE

Term

This Agreement shall become effective and shall be in full force and effect upon the execution of the Agreement by the City and the CONSULTANT. This Agreement shall continue in full force and effect for a period of two (2) years from the effective date of the Agreement (the "Term), unless the Agreement is sooner terminated in accordance with the Terms and Conditions in the Agreement; provided, however, that the City and the CONSULTANT may mutually agree in writing to extend the Term of this Agreement.

Payment

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, in an amount not to exceed \$196,520.00. 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 amount specified above. Any additional work will require a separate Authorization for Consultant Services signed by both parties.

CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by the City of itemized invoices. Invoices shall be submitted no later than forty-five (45) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project, as applicable. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due City. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work.

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

Time for Commencement and Completion

CONSULTANT shall commence performance of the work no later than three (3) calendar days following issuance of Notice to Proceed. It is anticipated that performance of the work will be completed within one hundred twenty-four (124) calendar days from commencement. In no event shall performance of the work be completed later than one hundred thirty-eight (138) calendar days from commencement without the prior written authorization of the City. If Consultant fails to complete the work in this time period, City may avail itself of any and all remedies provided for in this Agreement.

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

PWCP 15-007 - Avenue K-12 and 5th Street East Et Al.
Drainage and Street Improvements for Generally Bounded Avenue K, Avenue K-12,
5th Street East and 7th Street East
RFP No. 631-16

TASK NO.	DESCRIPTION*	PRICE
1.	PROJECT ADMINISTRATION/MANAGEMENT	\$ 22,050
	1.1 Kick-Off Meeting	
	1.2 Progress Meetings	
	1.3 Project Management	
	1.4 Coordination Calls and Emails	
	1.5 Quality Assurance & Quality Control	
2.	ADDITIONAL STUDIES/INVESTIGATIONS	
	4.1 Potholing	\$ 7,150
	4.2 Geotechnical work: perform testing, design and reporting per the City of Lancaster Engineering Design Guidelines	\$ 4,950
3.	P&E - DESIGN, RESEARCH AND DEVELOPMENT	\$ 157,270
4.	P&E DELIVERABLES - 30%, 60%, 90% AND 100%	\$ 5,100
	TOTAL COST	\$ 196,520

TOTAL COST AMOUNT WRITTEN IN WORDS

One hundred ninety-six thousand five hundred and twenty dollars.

PROJECT FEE ESTIMATE

Project No.: 992015 Task 100.424 K-12
Description: PWCP 15-007 Avenue K-6 and 5th Street et al. Drainage and Street Improvements
Client: City of Lancaster
Date: December 16, 2015
Prepared by: DBR
Office: 4
Billing Type: T&M
Prevailing Wages (y/n): Y

PENFIELD & SMITH
 42225 10th Street West, Suite 119
 Lancaster, CA 93534
 (661) 949-6676

TASK	Hours											TOTAL HOURS	LABOR COST			
	Senior Principal Engineer	Senior Project Manager	Project Manager	Engineer In-Training	Principal Surveyor	2-Man Survey Crew	Project Surveyor	Senior Planner	Tech Support							
1. Project Administration/Management																
1.1 Meetings	18													18	3690	
1.2 Project Management	56													56	11480	
1.3 Quality Assurance and Quality Control	32													32	6680	
2. Final Design PS&E																
2.1 Design Survey					8	96	80							184	41880	
2.2 Geotechnical Investigations																
2.3 Utilities (see expenses for potholing)	2			8										10	1450	
2.4 Environmental Document			160	600				32						32	4960	
2.5 PS&E														760	107600	
3. Deliverables (30%, 60%, 90% & 100%)																
3.1 Project Administration & Management	8								1					9	1720	
3.2 Design Survey	1					2								2	570	
3.3 Potholing	1													1	205	
3.4 Geotechnical	1			16					4					1	205	
3.5 PS&E														20	2400	
TOTALS	32	66	160	624	8	98	80	32	5					1125	183040	
Classification	\$/hr											\$/hr				
11 Senior Principal Engineer	215.00															
10 Senior Project Manager	205.00															
9 Project Manager	185.00															
7 Engineer-In-Training	130.00															
18 Principal Surveyor	215.00															
20 Two-man Party	285.00															
15 Project Surveyor	160.00															
36 Senior Planner	155.00															
43 Technical Support	80.00															
Average Rate:	162.702											162.702				
Expenses												Reimbursables		Consultant		
Earth Systems (Geotech Report)														4850		
SaR-Dig (Pothole)														7150		
Blueprints														0		
Travel														0		
Mail														0		
Telephone														0		
Photocopies														0		
Photographs														0		
Average Rate:	162.702											\$1,380		\$13,480		
Grand Total =													\$196,520			