

CONTRACT SERVICES AGREEMENT

By and Between

CITY OF CARSON

and

CNC ENGINEERING

**AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF CARSON AND
CNC ENGINEERING**

THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into this ____ day of July, 2016 by and between the City of Carson, a California municipal corporation (“City”) and CNC Engineering, a California corporation (“Contractor”). City and Contractor will sometimes be referred to, individually or collectively, as “Party” or “Parties.”

RECITALS

A. On September 5, 2007, City and Contractor entered into a professional services agreement, whereby Contractor agreed to provide technical and engineering services for the Broadway Improvement Project No. 1276, to provide plans, specifications, and estimates for the rehabilitation of Broadway from Main Street to Alondra Boulevard (the “2007 Agreement”). The 2007 Agreement is attached hereto as Attachment 1.

B. City received a grant from Metropolitan Transportation Authority (MTA) as part of the 2013 Call for Projects to upgrade 5 signalized intersection on Broadway from Victoria to Alondra (the “Grant Project”). The grant will cover \$538,638 of the estimated total cost of project \$813,289. The funding agreement between the City and MTA was approved by the City Council and fully executed on December 15, 2015.

C. As part of the Grant Project, the City must update the construction documents for signal modification plans prepared in pursuant to the 2007 Agreement at the following intersections: Broadway at Victoria Street; Broadway at the pedestrian crossing 350 feet south of Albertoni Street; Broadway at Albertoni Street; Broadway at Gardena Blvd; and Broadway at Alondra Blvd. The signal plans

D. Section 2607 of the Carson Municipal Code provide that “purchases and contracts for supplies and equipment of an estimated value greater than \$25,000 shall be by sealed bid and written contract with the lowest responsible bidder.” However, if “[t]he City Council finds that due to the nature of the supplies, equipment, or services the bidding or proposal process is not likely to result in the lowest price,” the City need not adhere to the bidding procedures set forth in Section 2600 et seq.

E. This Agreement is to update work that Contractor performed pursuant to the 2007 Agreement. Staff estimates that it would take approximately 2-3 months to prepare, issue, and review a new Request for Proposals (RFP). Contractor prepared traffic signal plans for the five signalized intersections identified in the MTA 2013 Call for Projects application while they were under contract by the City for Project No. 1276, therefore the time needed to update the plans will be significantly less with Contractor versus having a new design firm start from scratch.

F. The cost proposal submitted by Contractor for the Base Services, as further articulated in Exhibit “C” attached hereto and incorporated herein by reference, is \$31,335.00. Based on past RFPs for signal design work, City staff estimates that the cost to prepare a basic traffic signal plan ranges from \$10,000 – \$20,000. Therefore the cost to prepare brand new traffic signal plans would range between \$50,000 to \$100,000. Therefore, the proposal process is not likely to result in the lowest price.

G. Pursuant to the City of Carson's Municipal Code, City has authority to enter into and execute this Agreement.

H. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

The Scope of Service shall include the Contractor's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days,

may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Fifty Thousand Three Hundred Twenty Dollars (\$50,320.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City for any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes,

floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Shahab (Sean) Nazarie, P.E.</u>	<u>Director of Engineering</u>
(Name)	(Title)
_____	_____
(Name)	(Title)
_____	_____
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be **Reata Kulcsar**. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE
CANCELLED BEFORE THE EXPIRATION DATED THEREOF,
THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY
ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER
NAMED HEREIN.

[to be initialed]

Contractor Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

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

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Contractor's conduct.

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

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages

suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the

Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or

the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee,

as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials _____

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia Gause, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney

CONTRACTOR:

CNC ENGINEERING

By: _____
Name: Clement N. Calvillo
Title: President

By: _____
Name: Mary Calvillo
Title: Secretary

Address: _____

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

On _____ before me, _____

Date

Here Insert Name and Title of Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

On _____ before me, _____

Date

Here Insert Name and Title of Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

EXHIBIT “A”
SCOPE OF SERVICES

I. Contractor will perform the following Base Services: Contractor shall update the construction documents for signal modification plans prepared pursuant to the 2007 Agreement, at the following intersections:

- Broadway at Victoria Street
- Broadway at the pedestrian crossing 350 feet south of Albertoni Street
- Broadway at Albertoni Street
- Broadway at Gardena Blvd
- Broadway at Alondra Blvd

II. The following is a detailed description of the tasks necessary for the successful completion of the project:

Task 1. Meetings and Coordination

Contractor will attend a kick-off meeting with the City to finalize the project scope, points of contact, and schedule. Thereafter, Contractor will be available to meet with the City as necessary. Contractor will prepare the agendas, prepare and distribute meeting minutes, and follow up on all action items.

Contractor will coordinate with Los Angeles County Department of Public Works (LACDPW) Traffic and Lighting Division for signal improvements at the intersection of Broadway and Alondra Boulevard to incorporate the latest LACDPW specifications and equipment, since the intersection is partially controlled by LACDPW. Contractor will also process an encroachment permit application through Caltrans District 7 for installation of signal interconnect conduits at the SR-91 overcrossing.

Task 2. Field Review

Contractor will conduct a visual evaluation and document the current condition of the signal equipment and the roadway. Changes and updates will be incorporated into the base map to the extent practicable. This proposal excludes land surveying services.

Task 3. Traffic Counts

Contractor will utilize the services of National Data & Surveying Services (NDS) to collect 4-Hour AM and PM turning movement counts at all four intersections. Contractor will coordinate with the City’s Traffic Engineer to analyze the traffic counts obtained by NDS to determine whether the signal phasing should continue to provide permissive left turns or to modify the phasing and signal equipment for protected left turns at each intersection, except at the mid-block pedestrian crossing.

Task 4. Evaluation of Signal Phasing and Warrants

Contractor will perform warrant analysis based on the traffic counts obtained from Task 3, the intersection geometric criteria and the latest daily traffic volumes, accident data, signal phasing, timing and warrants to be provided by the City and County. The analysis will be performed in accordance with the CA-MUTCD (California Department of Transportation Manual on Uniform Traffic Control Devices) guidelines for Traffic Signal Timing Manual and will address the possible need for protected left turns vs. permissive.

Task 5. Utility Verification and Coordination

Contractor will send out notifications to all utilities servicing the area and request record drawings of existing and planned facilities from the purveyors. Copies of the plans will be submitted to all utilities that own underground facilities within the project with a request for review for potential conflicts of the traffic signal plan design with existing facilities.

This task also includes preparation of 8 1/2 x 11 sketches of the service connection for submittal to Southern California Edison (SCE).

Task 6. Preparation of Signal Interconnect Plans

Contractor will prepare the signal interconnect layout plan for all four intersections and the pedestrian crossing. The plan will show the layout of new conduit, pull boxes, and fiber-optic interconnect cable running along the east side of Broadway, within the sidewalk, from the traffic signal controller at Victoria Street to Alondra Boulevard. The plan will include notes and information for connecting the proposed fiber-optic interconnect cable to the existing signal interconnect at the intersection of Victoria Street and Main Street.

It is assumed that spacing of pull boxes will be between 300' to 500', depending on the location of driveways and other surface improvements.

Task 7. Update Signal Modification Plans, Specs and Estimates

Contractor will update the signal modification plans and special provisions according to the latest Caltrans and LACDPW standards, and City of Carson requirements. The quantities and construction cost statement will be updated in accordance with the revised plans and special provisions.

Task 8. Construction Support Services

Contractor will be available to provide the following construction support services:

- Attend and participate in one (1) pre-bid conference.
- Attend and participate in one (1) pre-construction conference.
- Respond to contractor's Request for Information (RFI) as necessary
- Review contractor submittals and respond within seventy two (72) hours of receipt of each submittal.

- Contractor will attend a minimum of four (4) site meetings with city staff and the contractor's representative during the construction phase. It is assumed that Contractor's project manager will attend these meetings when requested by the city. Additionally, Contractor will prepare brief meeting minutes of each meeting outlining the salient points discussed and the remedial actions required.
- Upon completion of construction, Contractor will revise the AutoCAD drawings to reflect project corrections using the contractor supplied "red line" mark-up set provided by the City and will deliver the final "As-Built" originals on Mylar as well as in CADD and PDF format to the City.
- Contractor's Project Manager will attend and participate in one (1) walk-through final check of the project to assure the work is in substantial conformance with the approved construction documents.

The following Optional Services may be offered in addition to the Base Services described above and will only be performed upon written request by the Contract Officer.

Task A-1. Geophysical Survey

Contractor will use the services of our subsurface utility investigation contractor, Wayne Perry, Inc. (WPI) to conduct a subsurface utility investigation using Electro-Magnetic and Ground Penetrating Radar (GPR) equipment to locate utilities within the sidewalk directly behind the curb returns at all four corners of the 4 intersections.

Utility potholing is not included.

Task A-2. Structural Engineering

If existing underground utilities are in conflict with the proposed standard signal pole foundation, then contractor shall be directed to construct a cantilever footing per the County of Los Angeles Department of Public Works Standard Cantilever Footing plan. If this option is not feasible, then Contractor will develop a special design of pole footings to avoid utility conflicts. Contractor will provide the necessary structural calculations and drawings for construction of footings and anchor bolts.

III. As part of the Services, Contractor will prepare and deliver the following tangible work products to the City:

- A. Plans, specifications, and estimates (PS&E's).
- B. Approved SCE electrical service plans.
- C. Meeting minutes and notes.
- D. Caltrans encroachment permit.

- IV. In addition to the requirements of Section 6.2, during performance of the Services, Contractor will keep the City appraised of the status of performance by delivering the following status reports:**
- A. Phased submittals at 30%, 70%, and 90%.
 - B. Draft specifications.
 - C. Draft estimates.
- V. All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.**
- VI. Contractor will utilize the following personnel to accomplish the Services:**
- A. Shahab (Sean) Nazarie, P.E., Director of Engineering
 - B. James Cramsie, P.E., Project Engineer

EXHIBIT “B”
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

[THIS EXHIBIT INTENTIONALLY LEFT BLANK]

DRAFT

EXHIBIT "C"
SCHEDULE OF COMPENSATION

- I. Contractor shall perform the following tasks at the following rates:**
- SEE EXHIBIT C-1**
- II. A retention of five percent (5%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.**
- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**
- IV. The City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:**
- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.**
 - B. Line items for all materials and equipment properly charged to the Services.**
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.**
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.**
- V. The total compensation for the Services shall not exceed \$50,320.00 as provided in Section 2.1 of this Agreement.**
- VI. The Contractor's billing rates for all personnel are attached as Exhibit C-1.**

EXHIBIT “D”
SCHEDULE OF PERFORMANCE

- I. Contractor shall perform all Services timely in accordance with the following schedule to be finalized by Contractor following Task 1 and subject to the written approval of the Contract Officer and the City Attorney’s office.**

TASK	DUE DATE
Task 1: Kick-off meeting	September 6, 2016
Task 2: Field review	September 9, 2016
Task 3: Traffic counts	September 20, 2016
Task 4: Evaluation of signal phasing and warrants	October 7, 2016
Task 5: Utility verification and coordination	October 21, 2016
Task 6: Preparation of signal interconnect plans	October 21, 2016
Task 7: Update signal modification plans, specs, & estimates	October 21, 2016
Task 8: Construction support services (Start)	March 15, 2016
Task A1: Geophysical survey	Will be scheduled if City exercises the option for this work
Task A2: Structural engineering	Will be scheduled if City exercises the option for this work

- II. Contractor shall deliver the following tangible work products to the City by the following dates.**

- A. Plans, specifications, and estimates (PS&E’s) within 90 calendar days of the City’s notice to proceed.
- B. Approved SCE electrical service plans. The SCE electrical service plans must be submitted to the Contract Officer within 90 calendar days of the City’s notice to proceed.
- C. Meeting minutes and notes; ongoing until conclusion of the project.

- D. Caltrans encroachment permit. Contractor must submit a completed permit application within 90 calendar days of the City's notice to proceed.

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

DRAFT

ESTIMATED COST**BROADWAY TRAFFIC SIGNAL PLAN UPDATING****PREPARED FOR CITY OF CARSON****PREPARED BY: CNC ENGINEERING****DATE: MAY 6, 2016**

TASK	DESCRIPTION	PROJ	PROJ	DESIGN	ADMIN	SUB	EST	TOTAL
		MGR	ENGR	ENGR	ASST	CONTRACT LUMP SUM	TOTAL HRS	NTE AMOUNT
1	Meetings & Coordination	26	20		6		52	\$6,760
2	Field Review		8	4			12	\$1,440
3	Traffic Counts	2	2		2	\$805	6	\$1,475
4	Evaluation of Signal Phasing/Warrents	8	12		2		22	\$2,820
5	Utility Verification and Coordination	4	12	8	4		28	\$3,220
6	Preparation of Signal Interconnect Plan	2	8	12			22	\$2,620
7	Update PS&E	4	16	24			44	\$5,240
8	Construction Support	8	40	12	4		64	\$7,760
ESTIMATED LABOR HOURS		54	118	60	18		250	
TOTAL NOT-TO-EXCEED AMOUNT						\$805		\$31,335
Optional Services:								
A-1	Geophysical Survey	2	2		1	\$7,700	5	\$8,310
A-2	Structural Engineering	2	2		1	\$10,005	5	\$10,615

EXHIBIT C-1

Attachment 1



CITY OF CARSON CARSON REDEVELOPMENT AGENCY

CONTRACT DOCUMENTS

AGREEMENT FOR PROFESSIONAL SERVICES

Project No. 1276

BROADWAY IMPROVEMENTS FROM MAIN STREET TO ALONDRA BOULEVARD

WITH

CNC ENGINEERING

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement" herein) is made and entered into this 20th day of **December 2007**, by and between the local public agency or agencies identified in Section 1 hereof (hereinafter called "Owner"), and CNC ENGINEERING.(hereinafter called "Engineer").

RECITALS

WHEREAS, Owner desires to engage Engineer to perform certain technical and professional engineering services, as provided herein, in connection with that certain project identified as: **BROADWAY IMPROVEMENTS, FROM MAIN STREET TO ALONDRA BOULEVARD, PROJECT NO. 1227**

WHEREAS, the principal members of Engineer are qualified professional engineers duly registered under the laws of the State of California, and Engineer desires to accept such engagement;

NOW, THEREFORE, in consideration of performance by the parties of the promises, covenants, and conditions herein contained, the parties hereto agree as follows:

1. Parties to the Agreement.

- A. Owner: The Carson Redevelopment Agency, a body corporate and politic, having its principal office at One Civic Plaza Drive, Suite 200, Carson, CA 90745.
- B. Engineer: CNC ENGINEERING. having its principal office at 255 North Hacienda Boulevard, Suite #222, City of Industry, CA 91744.

2. Representatives of the Parties and Service of Notices.

The representatives of the parties who are primarily responsible for the administration of this Agreement, and to whom formal notices, demands and communications shall be given, are as follows:

- A. The principal representative of the Owner shall be:

Mr. M. Victor Rollinger, P.E.
Development Services Group General Manager / City Engineer
City of Carson / Carson Redevelopment Agency
701 E. Carson Street
Carson, CA 90745

- B. The principal representative of the Engineer shall be:

Cory A. Bersch, P.E.
Regional Vice President
CNC Engineering
(949) 863-0588
8 Corporate Park
Suite 100
Irvine, CA 92606

- C. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the other party's regular business hours or by facsimile before or during the other party's regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

- D. If the name of the principal representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice shall be given within five (5) working days of said change.

3. **Post Award Audit.**

NOT USED

4. **Description of Work.**

Owner hereby engages Engineer, and Engineer accepts such engagement, to perform the technical and professional services set forth in the "Scope of Work" attached hereto as Exhibit "A." Engineer shall perform and complete, in a manner reasonably satisfactory to Owner and in accordance with professional standards consistent with the standards of the industry for similar work in a similar locale under similar circumstances, all work and services set forth in Exhibit "A." The Development Services Group (DSG) General Manager, 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 General Manager.

5. **Commencement and Completion of Work.**

The execution of this Agreement by the parties does not constitute an authorization to proceed. The services of Engineer shall commence when the Owner, acting by and through its DSG General Manager, has issued a Notice to Proceed. The work described in Scope of Work (**Exhibit "A"**) shall be completed within **140 business days** following Engineer's receipt of the Notice to Proceed, in accordance with Project Schedule (**Exhibit "B"**) and

Fee Proposal (**Exhibit "C"**). Engineer shall have no claim for compensation for any services or work which has not been authorized in writing by the Owner's Notice to Proceed.

6. 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 Engineer, then Engineer 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 17.
- B. Engineer shall submit to Owner a written request for an extension of time within ten (10) days after the 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 Engineer 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 Engineer.

7. Data Provided to Engineer.

Owner shall provide to Engineer, 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."

8. Independent Contractor.

Engineer is, and shall at all time remain as to Owner, a wholly independent contractor. Engineer shall have no power or authority to incur any debt, obligation, or liability on behalf of the Owner or otherwise act on behalf of Owner as an agent. Neither Owner nor any of its agents shall have control over the conduct of Engineer or any of Engineer's employees, except as set forth in this Agreement. Engineer shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of Owner. Engineer agrees to pay all required taxes on amounts paid to Engineer under this Agreement, and to indemnify and hold Owner harmless from any and all taxes, assessments, penalties, and interest asserted against Owner by reason of the independent contractor relationship created by this Agreement. Engineer shall fully comply with the workers' compensation law regarding Engineer and Engineer's employees. Engineer further agrees to indemnify and hold Owner harmless from any failure of Engineer to comply with applicable worker's compensation laws. Owner shall have the right to offset against the amount of any fees due to Engineer under this Agreement any amount due to Owner from

Engineer as a result of Engineer's failure to promptly pay to Owner any reimbursement or indemnification arising under this section.

9. Engineer's Personnel.

- A. All services required under this Agreement will be performed by Engineer, or under Engineer's direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services, including, without limitation, a city of Carson business license as required by the Carson Municipal Code.
- B. Engineer shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Agreement.
- C. Engineer 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, and any other employee benefits.
- D. Engineer shall indemnify and hold harmless the Owner from any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices.

10 Compensation.

The Owner agrees to pay or reimburse to the Engineer in accordance with the following:

- A. The basis of payment for the services provided under this Agreement, through completion of Scope of Work shall be based on lump sum amount as shown on 10.A(5).

(1) Owner shall reimburse the Engineer for actual percentage of completion incurred by the Engineer in performance of the work as indicated on Exhibits "C."

(2) Owner shall reimburse Engineer for its direct non-salary costs which are directly attributable and properly allocable to the project. Direct non-salary costs include Engineer's payment to others engaged by Engineer on work necessary to fulfill the terms of this Agreement as indicated on Exhibit "A" and Exhibit "B," attached hereto, and incorporated by this reference.

(3) Owner shall reimburse Engineer, in accordance with Department of Personnel Administration (DPA) Guidelines, for travel expense of Engineer necessary to fulfill the terms of this Agreement which have been approved in advance in writing by Owner, including airfare and out-of-pocket costs, for

employees while away from their regular place of duty and directly engaged on the project.

(4) Owner shall reimburse Engineer, for the cost principles for CFR 48 Part 31, and the Uniform Administrative Requirements CFR 49 Part 18.

(5) The amount eligible to be earned under section 10.A.(1), 10.A.(2), 10.A.(3) and 10.A.(4) is a lump sum amount of \$269,140.00

B. Engineer's invoices shall be submitted once every month and shall indicate percentage of completion of tasks as listed on Exhibit "A" and Exhibit "B." Owner shall pay said invoices within thirty (30) days following receipt from Engineer and approval by Owner original invoices. Invoicing shall be on mutually satisfactory forms.

11. Retainage.

There is no payment retention on this contract.

12. Extra Work.

Services not included in Scope of Work shall be requested in writing by the Owner or the Engineer. Engineer shall not commence these services without written authorization from the Owner. Owner shall reimburse Engineer in the amount as agreed upon.

13. Service During Construction.

All services during construction is included in the lump sum amount described in Fee Proposal (Exhibit C). No additional compensation is allowed.

14. Construction Means, Methods, and Safety.

Notwithstanding anything in this Agreement, Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by Owner's construction contractors."

15. Hazardous Materials.

Notwithstanding any other provision of this Agreement, the Engineer and Engineer's sub-consultants shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, mold, polychlorinated biphenyl (PCB) or other toxic substances."

16. **Indemnity and Insurance.**

- A. Engineer agrees to indemnify, hold harmless and defend the Owner, its officers and employees, from and against any and all claims, losses, obligations, or liabilities, including legal expenses and costs of expert witnesses and consultants arising out of or related to engineer's negligent or willful acts, errors or omissions, including those of its officers, agents, employees, subcontractors or any person engaged by Engineer.
- B. Engineer will deliver to Owner a "Special Endorsement" in substantially the form attached hereto as "**Exhibit E,**" or in such other form as shall be satisfactory to city of Carson Risk Manager, evidencing professional liability insurance coverage in an amount not less than \$1,000,000 issued by a company listed "B" or better in Best's Insurance Guide and authorized to do business in the State of California. In no event will Engineer be liable for consequential damages.
- C. The Engineer, 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" or better in the Best's Insurance Guide and authorized to do business in the State of California.
- (1) Workers' Compensation and Employer's Liability
- Workers' Compensation--coverage as required by law.
 - Employer's Liability limits of at least \$100,000 per occurrence.
- (2) Comprehensive General Liability/Automobile Liability
- Combined Single Limit--\$1,000,000.
- The automobile and comprehensive general liability policies may be combined in a single policy with a combined single limit of \$1,000,000. If not so combined each policy shall provide coverage in that amount. All of such Engineer's policies shall contain an endorsement providing that written notice shall be given to Owner at least thirty (30) calendar days prior to termination, cancellation or reduction of coverage in the policy. Copies of such endorsements shall be delivered to, and current copies shall be kept on file with, Owner during the term of this Agreement.
- (3) Policies providing for bodily injury and property damage coverage shall contain the following:

- (a) An endorsement extending coverage to Owner as an additional insured, in the same manner as the named insured, as respects liability arising out of the performance of any work under the Agreement. Such insurance shall be primary insurance as respects the interest of Owner, and any other insurance maintained by Owner shall be considered excess coverage and not contributing insurance with the insurance required hereunder.
 - (b) "Severability of Interest" clause.
 - (c) Elimination of any exclusion regarding loss or damage to property caused by explosion or resulting collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.
 - (d) Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by Engineer under the Agreement, including without limitation that set forth in Section 13.A, with the exception of willful acts, errors or omissions.
- (4) Promptly on execution of this Agreement and prior to commencement of any work Engineer shall deliver to Owner certificate of insurance and endorsements to the required policies.
 - (5) The requirements as to the types and limits of insurance to be maintained by Engineer are not intended to and shall not in any manner limit or qualify Engineer's liabilities and obligations under this Agreement, including the Engineer's indemnity obligation set forth in Section 13.A hereof, but excluding liability for professional errors and omissions.
 - (6) Any policy or policies of insurance that Engineer elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this Agreement shall include a provision waiving the insurer's right of subrogation against the Owner.

17. 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 Engineer of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials in possession or under the control of Engineer shall, at the option of Owner, become Owner's property. If this Agreement is terminated by Owner as provided herein, Engineer 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. The Engineer shall have no responsibility or liability for any use by the Owner of unfinished documents or documents or other materials revised by the Owner without the written approval of the Engineer.

18. Termination for Cause.

- A. The governing board of the Owner may, by written notice to Engineer, terminate the whole or any part of this Agreement in any of the following circumstances:
 - (1) If Engineer fails to perform the services required by this Agreement within the time specified herein or any authorized extension thereof; or
 - (2) If Engineer 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 as 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 Section 15.A, Owner may procure, upon such terms and in such manner as it may deem appropriate, services of a qualified engineer or engineers to complete the work required by this Agreement in a good and professional manner.
- C. If this Agreement is terminated as provided above in paragraph A, Owner may require Engineer to provide all finished or unfinished documents, data, studies, drawings, maps, photographs, reports, etc., prepared by Engineer. Upon such termination, Engineer shall be paid an amount equal to the contract amount, less the cost of hiring another consultant to complete Engineer's services. In the event no new consultant is employed, Engineer 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 both completed work and work in progress, to complete and incomplete drawings, and to other documents whether delivered to Owner or in possession of Engineer, and to authorized reimbursement expenses.
- D. If, after notice of termination of the Agreement under the provisions of Section 17, it is determined, for any reason, that Engineer 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 17.

19. Contract Changes.

No change in the character, extent, or duration of the work to be performed by Engineer shall be made except upon approval by the Owner's governing body and execution of a supplemental agreement in writing between Owner and Engineer. The supplemental agreement shall set forth the changes of work the Extensions of Time, and the adjustments of the cost and the fee to be paid by Owner to Engineer, if any. In special cases, where it is essential that extra work be performed immediately, the supplemental agreement covering such change shall be executed as soon as reasonably possible.

20. Auditing and Record Retention.

The Engineer and any subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred, and further, shall make such materials available at their respective offices at all reasonable times during the contract period and for at least three years after contract completion. Such materials shall be available for inspection by authorized representatives of the Owner, and copies thereof shall be furnished promptly if required. Accounting records shall be kept indefinitely due to ongoing audits until notified by Caltrans.

21. Non-Discrimination and Equal Employment Opportunity.

- A. In the performance of this Agreement, Engineer shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, creed, ancestry, sex, marital status, national origin, age, physical or mental handicap, medical condition, or sexual orientation. Engineer 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, creed, ancestry, sex, marital status, national origin, age, physical or mental handicap, medical condition, or sexual orientation. 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 21.A above shall be included in all solicitations or advertisements placed by or on behalf of Engineer for personnel to perform any services under this Agreement. Owner shall have access to all documents, data and records of Engineer and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No. 11246 which is incorporated herein by this reference. A copy of Executive Order No. 11246 is available for inspection and on file with the Engineering Services Division.
- C. To the greatest extent feasible, Engineer shall endeavor to employ residents of the city of Carson in the rendering of the services required by this Agreement. All solicitations for employment arising in whole or in part out of the execution of this agreement, whether full-or part-time, new or replacement hires, shall be listed with

the Carson Job Clearinghouse and the Workforce Investment Network Board. To list employment opportunities contact:

Carson Job Clearinghouse
One Civic Plaza, Suite 200
Carson, CA 90745
(310) 233-4800 Fax (310) 233-4832

Workforce Investment Network Board
One Civic Plaza, Suite 500
Carson CA 90745
(310) 518-8200

22. Engineer's Warranties and Representations.

Engineer warrants and represents to Owner as follows:

- A. Engineer has not employed or retained any person or entity, other than a bona fide employee working exclusively for Engineer, to solicit or obtain this Agreement.
- B. Engineer has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Engineer, 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. Engineer 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 Engineer, and that if any such interest comes to the knowledge of Engineer 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, Engineer 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.

23. Cost Principle.

Engineer agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, part 31.000 et seq., shall be used to determine eligibility of individual items of cost.

24. Administrative Requirements.

Engineer agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and

Local Government. that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, part 31.000 et seq., shall be used to determine eligibility of individual items of cost.

25. Subcontracting, Delegation and Assignment.

- A. Engineer shall not delegate, subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of the Owner; provided, however, that claims for money due or to become due to Engineer from Owner under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Any proposed delegation, assignment or subcontract shall provide a description of the services to be covered, identification of the proposed assignee, delegee or subcontractor, and an explanation of why and how the same was selected, including the degree of competition involved. Any proposed agreement with an assignee, delegee or subcontractor shall include the following:
 - (1) The amount involved, together with Engineer's analysis of such cost or price.
 - (2) A provision requiring that any subsequent modification or amendment shall be subject to the prior written consent of the Owner.
- B. Any assignment, delegation or subcontract shall be made in the name of the Engineer and shall not bind or purport to bind the Owner and shall not release the Engineer from any obligations under this Agreement including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegees and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to Engineer under this Agreement.
- C. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors. All contracts with subcontractors shall contain all of the following provisions: Section 9, Compensation; Section 10, Retainage; Section 17, Auditing and Record Retention; Section 20, Cost Principles; and Section 21, Administrative Requirements.

26. Ownership of Documents.

Except as provided in Section 17 and 18 hereof, all plans, specifications, reports, studies, tracings, maps and other documents prepared or obtained by Engineer 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 Engineer under this Agreement shall, upon request, be made available to Owner without restriction or limitation on their use. Engineer shall not be liable to the Owner or of Owner's

employees or consultants for use of Engineer's plans, specifications, or data that are revised, incomplete or preliminary or which are used on projects other than the project that is the subject of this Agreement.

27. Patent Rights.

The insurance of a patent or copyright to Engineer or any other person shall not affect Owner's rights to the materials and records prepared or obtained in the performance of this Agreement. Owner reserves a license to use such materials and records without restriction or limitation, and Owner shall not be required to pay any additional fee or royalty for such materials or records. The license reserved by Owner shall continue for a period of fifty years from the date of execution of this Agreement, unless extended by operation of law or otherwise.

28. Copyrights.

The Owner may permit copyrighting reports or other products of this Agreement. Owner, shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for government purposes. The Engineer shall have no liability for any data used on any other project or extension of this project.

29. Entire Agreement and Amendments.

- A. This Agreement supersedes all prior proposals, agreements, and understandings between the parties and may not be modified or terminated orally.
- B. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement.

30. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by Owner of any payment to Engineer constitute or be construed as a waiver by Owner of any breach of covenant, or any default which may then exist on the part of Engineer, and the making of any such payment by Owner shall in no way impair or prejudice any right or remedy available to Owner with regard to such breach or default.

31. 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 any action at law or in equity is brought to enforce or interpret any provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

32. Exhibits. The following Exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety:

Exhibit "A" Scope of Work

Exhibit "B" Project Schedule (shall be provided prior to issuance of Notice To Proceed)

Exhibit "C" Fee Proposal

Exhibit "D" NOT USED

Exhibit "E" Professional Liability Special Endorsement of Insurance Company's Certificate of Insurance

33. Governing Law.

This Agreement shall be governed by the laws of the State of California. Engineer shall comply with all Federal, State, and local laws and ordinances applicable to the work including compliance with prevailing wage rates and their payment in accordance with California Labor Code Section 1775.

34. Design Standards.

The following standards shall apply to and govern the design of this project:

A. Standard Specifications for Public Works Construction (latest edition).

B. city of Carson Standard Drawings.

C. State of California, Department of Transportation, Standard Specifications (latest edition).

35. Effective Date.

This Agreement shall become effective as of the date set forth on the first page when the last of the parties, whether Owner or Engineer, 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.

Attest:

"OWNER"

CARSON REDEVELOPMENT AGENCY

By: _____
HELEN S. KAWAGOE, CITY CLERK/ AGENCY SECRETARY

By: _____
MAYOR/ CHAIRMAN JIM DEAR

APPROVED AS TO FORM:

By: _____
CITY ATTORNEY / AGENCY COUNSEL

SEAL

Attest:

"ENGINEER"

CNC Engineering

By: _____

By: _____

Title: _____

Title: _____