

## **PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by the CITY OF GARDEN GROVE, a municipal corporation, ("CITY"), and **WOOD ENVIRONMENT & INFRASTRUCTURE SOLUTIONS, INC.**, a Nevada Corporation ("CONSULTANT").

### **RECITALS**

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to CITY OF GARDEN GROVE City Council approval dated \_\_\_\_\_.
2. CITY desires to utilize the services of CONSULTANT to provide **Phase 2 of the Track 2 implementation plan for compliance with the California Water Code 13383 Administrative Order issued by the Santa Ana Regional Water Quality Control Board (OVTA Surveys)** (Attachment "A").
3. CITY does not have the personnel to accomplish said services.
4. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish the required services.

### **AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement:**

This Agreement shall cover services rendered from date of this Agreement until the services to be provided are completed or unless sooner terminated per Subsection 3.4.

2. **Services to be Provided:** The services to be performed by CONSULTANT shall consist of the tasks specified in CONSULTANT'S Proposal, which is attached hereto as Exhibit "A" and incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work. CONSULTANT warrants that all services will be performed in a competent, professional and satisfactory manner in accordance with customary and usual practices in CONSULTANT'S profession and the standards prevalent in the industry for such services. By executing this Agreement, CONSULTANT warrants that it has carefully considered how the work should be performed and fully understands the facilities, difficulties, and restrictions attending performance of the work under this Agreement.

3. **Compensation.** CONSULTANT shall be compensated as follows:

- 3.1 **Amount.** CONSULTANT shall be compensated for the services provided under this Agreement on an hourly basis in accordance with the fee schedule set forth in CONSULTANT's Proposal; provided, however, that

total compensation payable by CITY to CONSULTANT under this Agreement shall not exceed the total amount of Fifty-Three Thousand Six Hundred Dollars and 00/100 cents (**\$53,600.00**), payable in arrears. Unless otherwise mutually agreed by the parties in writing, CONSULTANT shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein.

- 3.2 **Payment.** For work under this Agreement, payment shall be made per monthly invoice submitted by CONSULTANT for work completed.
- 3.3 **Records of Expenses.** CONSULTANT shall keep complete and accurate records of payroll costs, travel and incidental expenses. These records will be made available at reasonable times to CITY.
- 3.4 **Termination.** CITY and CONSULTANT shall each have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination to the other party. If the Agreement is terminated by CITY, then the provisions of this Section 3 shall apply to that portion of the work completed. In such event, CITY will compensate CONSULTANT for work performed to date in accordance with the Proposal. CONSULTANT is required to present evidence to support performed work.

#### **4. Insurance Requirements**

- 4.1 **Commencement of Work.** CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 **Workers Compensation Insurance.** For the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable. The insurer shall waive its rights of subrogation against the CITY, its officers, officials, agents, employees, and volunteers.
- 4.3 **Insurance Amounts.** CONSULTANT shall maintain the following insurance for the duration of this Agreement:
  - a) Commercial general liability in an amount not less than \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be approved by the CITY, admitted and licensed in California, and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY;
  - b) Automobile liability in an amount not less than of \$1,000,000 per occurrence; (claims made and modified occurrence policies are not

acceptable) Insurance companies must be approved by the CITY, admitted and licensed in California, and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

- c) Professional liability in an amount not less than \$1,000,000 per occurrence; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the Agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of the agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, lease, hired, or borrowed by CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects to CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

*If CONSULTANT maintains higher insurance limits than the minimums shown above, CONSULTANT shall provide coverage for the higher insurance limits otherwise maintained by the CONSULTANT.*

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount, which may become due to CONSULTANT.

6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance With Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government. CONSULTANT shall comply with, and shall be responsible for causing all contractors and subcontractors performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The City makes no warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.
9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by CITY, unless disclosure is required by law.
10. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
12. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(a) Address of CONSULTANT is as follows:

Wood Environment & Infrastructure Solutions, Inc.  
9177 Sky Park Court  
San Diego, CA 92123-4341  
Attention: Ted Von Bitner, Associate Project Manager

(b) Address of CITY is as follows (with a copy to):

City Manager  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840

City Attorney  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840

13. **CONSULTANT'S Proposal.** This Agreement shall include CONSULTANT'S proposal, Exhibit "A" hereto, which shall be incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
14. **Licenses, Permits and Fees.** At its sole expense, CONSULTANT shall obtain a **Garden Grove Business License**, all permits and licenses as may be required by this Agreement.
15. **Familiarity With Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.
16. **Time of Essence.** Time is of the essence in the performance of this Agreement.
17. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability and reputation of CONSULTANT, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONSULTANT. CITY will deal directly with and will make all payments to CONSULTANT.
18. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
19. **Indemnification.** To the fullest extent permitted by law, CONSULTANT agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any

person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT in the performance of the Agreement. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

20. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and CONSULTANT.
21. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and CONSULTANT.
22. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.
23. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties
24. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.
25. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY.

*[SIGNATURES ON FOLLOWING PAGE]*

**IN WITNESS THEREOF**, these parties hereto have caused this Agreement to be executed as of the date set forth opposite the respective signatures.

ATTEST:

**"CITY"  
CITY OF GARDEN GROVE**

\_\_\_\_\_  
City Clerk Dated

By: \_\_\_\_\_  
City Manager Dated

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney Dated

**"CONSULTANT"  
WOOD ENVIRONMENT &  
INFRASTRUCTURE SOLUTIONS,  
INC.**

By: \_\_\_\_\_

Title: President

By: \_\_\_\_\_

Title: Secretary

Dated: \_\_\_\_\_

Tax I.D.: \_\_\_\_\_

If CONSULTANT/CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY

# "Attachment A"



July 9, 2019

City of Garden Grove  
Attn: Mr. Albert J. Holmon  
Environmental Services Manager  
13802 Newhope Street  
Garden Grove, California 92843

**Subject: Track 2 Implementation Plan Assistance to the City of Garden Grove for Compliance with the Trash Provisions Policy- Phase 2 (OVTA Surveys)**

Dear Albert:

Wood Environment & Infrastructure Solutions, Inc. (Wood) would like to thank you for the opportunity to assist the City of Garden Grove with implementation of the Trash Provisions Track 2 implementation plan for compliance with the California Water Code 13383 Administrative Order issued by the Santa Ana Regional Water Quality Control Board (Regional Board).

We, meaning Wood, understand the City's intent and need for selecting the Track 2 compliance pathway and we are fully committed to supporting the City with this process. We prepared this proposal with a strong understanding the next steps that the City needs to complete in 2019, and have drafted our scope of work to reflect the priority work that should be completed.

We very much thank you for this opportunity and look forward to supporting the City on this very important project. Should you have any questions regarding the scope of work, please contact me at (858) 514-7741 or by email at [Theodore.VonBitner@woodplc.com](mailto:Theodore.VonBitner@woodplc.com).

Sincerely,

**Wood Environment & Infrastructure Solutions, Inc.**

A handwritten signature in black ink, appearing to read "T. Von Bitner".

Ted Von Bitner, PhD  
Project Manager

A handwritten signature in black ink, appearing to read "Kacen N. Clapper".

Kacen Clapper  
Assistant Project Manager



## 1.0 SCOPE OF WORK.

Our proposed approach for developing the implementation plan will focus on completing three tasks as described in the following sections.

### **Task 1. Trash Provisions Program Workshop**

The Trash Provisions program represents a new challenge for the City and implementation of the program is expected to involve staff from a wide range of City departments. Wood intends to help the Mr. Holmon educate the City staff and will provide a workshop with a presentation and question-and-answer session for staff. The presentation is intended to provide an overview of the program to set the stage for future year's coordination and collaboration on a number of issues such as data collection procedures, annual reporting obligations, and improve coordination on a number of issues such as homeless encampment remediation.

Wood will provide Mr. Holmon with an electronic copy of the draft presentation in advance of the workshop. The final PowerPoint slides will be delivered on the day of workshop by electronic mail or transfer on a compact disk.

Deliverable: Draft and final PowerPoint presentation.

### **Task 2. On-land Visual Trash Assessments for Baseline Trash Generation Rate Verification.**

This task covers the project planning steps and completion of a series of walking based inspections to estimate trash levels along the public right-of-way. The walking-based inspections referred to as "On-land Visual Trash Assessments" or "OVTAs" are the State and Regional Water Quality Control Board's preferred method for verifying the Track 2 trash generation rate model and to assess the removal effectiveness of trash capture Best Management Practices (BMPs). The State requires a minimum of two surveys over a representative proportion of the City's Priority Land Use parcel. Additionally, the OVTA surveys need to be completed by a two-person team to ensure quality assurance standards are maintained.

Our support to the City is expected to include the following:

- Geographic information system (GIS) based analyses to identify potential OVTA segments in each of the five priority land uses and Caltrans State Road 22 on-ramps and off-ramps,
- Preparation of hard copy maps for field teams which can also provide a paper trail in response to a potential Santa Ana Regional Water Quality Control Board audit,

- Completion of OVTA surveys at a representative number of OVTA segments in each of the five priority land uses,
- Transferring the field information into a GIS shapefile for the City's database, and
- Preparation of a hardcopy and GIS formatted baseline trash generation rate model.

The field validated trash generation rate baseline model serves as the technical foundation for the City's Track 2 implementation plan including the selecting of structural and non-structural BMPs, the framework of the annual monitoring program, and the reporting of compliance status with regards to demonstrating Full Capture System Equivalency. Our deliverable under this task will include providing a hardcopy and electronic formatted version of the validated trash generation rate model.

**Deliverable:** Validated Trash Generation Rate Map.  
GIS shapefiles.

### **Task 3. GIS Support for Trash Provision Program Planning.**

This task covers the GIS analysis needed in support of planning level efforts for BMP implementation and annual monitoring program implementation. Specifically, this task will focus on Wood performing a series of GIS analyses to identify optimal locations for installation of full capture system (FCS) devices such as catch basin connector pipe screens. Wood intends to generate a list of recommended sites for FCS installation to increase the trash capture in very high and high trash generating rates areas. Similarly, Wood will consult with representatives from neighboring cities to identify locations where the adjacent city has installed FCS devices and the upstream drainage area includes portions of Garden Grove. Wood intends to delineate the City's land area to these neighboring FCS devices to help the City understand the potential land offset or shared compliance issues that need to be clarified.

Our deliverable under this task will include a draft and final version of map and a hardcopy or electronic formatted list of the recommended sites for FCS installation. The map deliverable under this task will additionally include the inter-jurisdictional areas served by a neighboring City's FCS device.

**Deliverable:** Map with referenced list of recommended FCS installation sites.  
GIS shapefiles.

# "Attachment A"



## **Task 4. Adaptive BMP Implementation Costing Scenarios.**

Wood's support under this task focuses on performing a series of BMP implementation and costing scenarios to help the City identify technical feasible and cost-effective pathways for achieving compliance. A second goal for Wood's work under this task is to help the City estimate the 10-year program costs so that staff can begin assessing the budgeting impacts and funding options that will be needed.

We propose to analyze a series of structural, non-structural, and combined approaches to provide the City with a range of potential implementation process options and to present our findings in a technical memorandum.

**Deliverables.** Draft and final technical memorandum.

## **Task 5. Project Management.**

The Wood Project Team will be responsible for the general project-level administration and management throughout the duration of this project. Project management includes coordinating with the City to ensure that project goals, budgets, and schedules are met. The following activities will be performed:

- Administration of the contract for this project
- Coordination and communication with the City
- Preparation for and attendance at progress meetings,
- Participation in conference calls to provide progress updates, as necessary.

**Deliverables.** Electronic Submittal of Meeting Notes with Action Items, as directed by the City.

# "Attachment A"



## 2.0 SCHEDULE.

The Period of Performance is expected to begin on September 1, 2019 contingent upon approval of the scope of work and issuance of an emailed Notice to Proceed (NTP) from Mr. Holmon. The Professional Services Agreement shall be executed in a timely manner by Wood and the City, with the understanding that receipt of the NTP is considered the City's acceptance of Wood's scope of work and proposed budget. The Period of Performance is expected to terminate on June 30, 2020. Any changes to the schedule will be made in consultation with the City.

The time schedule for completion of Task 1-5 is presented in the table below.

Task	Task Description	Deliverable	Proposed Deadline
1	Trash Provisions Program Workshop	Draft Presentation Final Presentation	May 15, 2020 May 30, 2020
2	OVRTA Surveys, Round 1 & 2 (Start in September 2019)	TGR Map	October 30, 2019
3	GIS Support for Trash Provisions	FCS Recommendation List Inter-Jurisdiction FCS Map	November 30, 2019
4	BMP Implementation Cost Analysis	Draft Technical Memo Final Technical Memo	January 30, 2020 February 28, 2020
5	Project Management	Meeting notes with action items, as directed by City staff	Monthly

# "Attachment A"



## 3.0 COSTS.

The total of this Project will be \$53,600. All labor rates and other charges will be invoiced on a time and material basis per the Rate Schedule listed in Attachment 1 and per the requirements of the Professional Services Agreement, with the understanding that support will be provided on an as-needed basis. The budgets assigned to each task are additionally based on the understanding that the City's priorities may change over time and that task budgets may be re-assigned to priority issues as directed by the City.

The task level cost estimates for Wood's services to the City are provided below in Table 1.

Task	Task Description	Labor Costs	Mileage	Total	% Total Costs
1	Department Training	\$5,720	\$0	\$5,720	11%
2	OVTA Surveys, Round 1/ 2	\$18,390	\$210	\$22,200	37%
3	GIS Support for Trash Provisions	\$9,760	\$0	\$9,760	20%
4	BMP Implementation Cost Analysis	\$12,500	\$0	\$12,500	25%
5	Project Management	\$3,420	\$0	\$3,420	7%
<b>TOTAL</b>		<b>\$49,790</b>	<b>\$210</b>	<b>\$53,600</b>	<b>100%</b>

Notes on Table 1. Wood's support to the City do not require subcontracted services. Other Direct Costs are estimated mileage for field related activities according to the 2018 IRS rate.

The Schedule of Hourly Rates for Wood staff is presented in the table below.

**PROFESSIONAL SERVICES:** The hourly labor rates set forth below are valid from September 2018. Client agrees to reimburse Wood Environment & Infrastructure Solutions, Inc. (Wood) at one and one half times or two times the associated rate/hour for non-exempt staff indicated by asterisk (\*) when Wood is required by statute to pay the associated overtime premium.

**LABOR:** CLIENT agrees to reimburse Wood for all hours worked by professionals at the following categories and associated hourly labor rates. Charges for expert services will be at the hourly rates shown. However, for depositions and court appearances, CLIENT agrees to reimburse Wood for all hours worked by professionals at the following classifications, but at two times the associated hourly labor rates. There will be a 4-hour minimum per-day charge for depositions and an 8-hour minimum per-day charge for court appearances.

<u>CONTRACT ROLE</u>	<u>RATE/HOUR</u>
Principal Engineer/Scientist	\$240.00
Senior Associate Engineer/Scientist	\$210.00
Associate Project Manager/Engineer/Scientist	\$180.00
Senior 2/Engineer / Scientist	\$160.00
Senior 1/Engineer/Scientist	\$155.00
Staff 3 Engineer / Scientist	\$130.00
Staff 2 Engineer / Scientist	\$120.00
Staff 1 Engineer / Scientist	\$110.00
Senior Technician	\$110.00
Field Technician	\$100.00
Senior Project Controller/Coordinator	\$150.00
Project Support/Coordinator	\$90.00
Technical Writer	\$110.00

**ESCALATION:** CLIENT agrees that hourly labor rates will be escalated 5% annually beginning January 1, 2020 unless otherwise specified by the agreement between Wood and CLIENT.

**OTHER DIRECT EXPENSES:** CLIENT agrees to reimburse Wood for all other direct expenses incurred as follows unless otherwise specified by the agreement between Wood and CLIENT:

Travel Expenses: Mileage	IRS Rate
Direct Expenses: Other expenses in support of project activities.	Cost + 15%
Unit Pricing: Any unit pricing work, such as laboratory analysis, in-house equipment rental, etc. will be quoted separately.	Quote

**INVOICES:** Invoices will be rendered at least monthly, either as a final or partial billing, and will be payable upon receipt. An additional late payment charge of 1 1/2% per month or the maximum charge allowed by law, whichever is less, will be payable on accounts not paid within 30 days from billing date.