

## MASTER ENGINEERING SERVICES AGREEMENT

This agreement, made and entered into this 16th day of November, 2000, by and between the City of Coalinga, hereinafter called the OWNER, and Tri-City Engineering, hereinafter called the ENGINEER.

### RECITALS

1. The OWNER intends to plan, design and construct Public Works and Utilities projects for City improvement purposes; and
2. The following is a partial list of these projects, among others, to be included in the Master Engineering Services Agreement:
  1. Jayne Avenue Deceleration Lane (SR 33) – Street Improvement.
  2. Sunset Street Sewer Collection System Improvements and Street Reconstruction.
  3. Community Development Block Grant Program for Fiscal Years 01-02, 02-03, 03-04, 04-05.
  4. Transportation Enhancement Act of the 21<sup>st</sup> Century (“TEA-21”) Program – Street Improvements.
  5. TEA-21 Congestion Mitigation Air Quality Program – Jayne Avenue Bike Path.
  6. Los Gatos Creek Bridge Project with Caltrans – Traffic Signal and Utilities.
  7. City Street Reconstruction Projects.
  8. Other projects as determined by the City.

Each of these shall hereinafter be referred to as the PROJECT(S); and

3. The OWNER desires to obtain professional engineering services for preliminary engineering, engineer's estimate, final design and drawings, project phasing, specification preparation, general observation and project consulting, and project representation in connection with said PROJECT(S).
4. The ENGINEER has agreed to provide said services subject to the terms and conditions hereof.

**NOW, THEREFORE**, the parties agree as follows:

**A. EMPLOYMENT OF ENGINEER**

The OWNER agrees to employ the ENGINEER and the ENGINEER agrees to perform professional engineering services as more particularly described in individual and separate project agreements for each PROJECT, subject to the negotiation of a satisfactory engineering fee for each project. Said agreements shall set forth the scope of work, services required, compensation and payments, responsibilities of the OWNER and the ENGINEER, certifications, assurances and schedules, as shown on Exhibit "A" attached hereto.

**B. PERIOD OF SERVICE**

This Agreement shall be effective upon execution by the OWNER and the ENGINEER, and shall remain in full force and effect for three (3) years after the execution date, or until all work under this Agreement has been completed or terminated under the provisions of the Termination section. During the term hereof, ENGINEER shall report to and be accountable to the City Public Works Director and/or the Utilities Director.

**C. LIABILITY AND INSURANCE**

The ENGINEER shall save, defend and hold harmless, and indemnify the City of Coalinga, the Coalinga Redevelopment Agency, its officers, agents, employees and volunteers as registered with the OWNER from all damages, costs or expenses in law or equity that may arise because of damages to property or personal injury which may be occasioned by any negligent act or omissions of the ENGINEER, or any of the ENGINEER's employees, in the course of performing work hereunder.

ENGINEER shall, at his own expense, take out and keep in force during the continuance of this contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work of the ENGINEER, his agents, or employees under this Agreement.

ENGINEER shall maintain limits no less than:

1. General Liability: General liability in a company or companies to be approved by the OWNER (approval of which shall not be unreasonably withheld), Best's rating of no less than A:VII, to protect the ENGINEER, his agents, representatives, employees, or subcontractors by obtaining certificates or insurance evidencing coverage from these agents, representatives, or sub-consultants

against any liability to the public incident to the work to be performed under this Agreement. Said insurance shall be in the amount of not less than \$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.

Said policy shall name the OWNER and Redevelopment Agency, its officers, officials, employees and volunteers as registered with the OWNER as additional insured (said insurance shall be primary and non-contributing with any insurance carried by or for the benefit of the additional insured) and shall obligate the insurance carriers to notify the OWNER in writing not less than thirty (30) days prior to the cancellation thereof. The OWNER reserves the right to review and approve the maximum deductible limit(s) of the above reference insurance policy(ies) (approval of which shall not be unreasonably withheld).

2. Automobile: \$500,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California.
4. Errors and Omissions: Errors and Omissions Insurance Policy of not less than \$500,000 limit of liability per project.

Within thirty (30) days after execution of the contract and prior to the first progress payment, ENGINEER shall file with OWNER a certificate of insurance.

#### **D. ACCESS TO RECORDS**

The OWNER, or any duly authorized representatives, shall have access to any books, documents, papers and records of the ENGINEER which are directly pertinent to each PROJECT for the purpose of making audit, examination, excerpts and transcriptions.

#### **E. TERMINATION**

Either party to this Agreement may terminate the Agreement with or without cause by giving to the other thirty (30) days written notice. Upon delivery of such

notice by the OWNER to the ENGINEER, and upon expiration of the thirty day period, the ENGINEER shall discontinue all services in connection with the performance of this Agreement, and all project Agreements, and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the ENGINEER shall submit a statement, showing in detail the services performed under this Agreement or any project Agreements to the date of termination. The OWNER shall then pay the ENGINEER promptly that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement or project Agreements shall be delivered to the OWNER when and if this Agreement is terminated, but subject to the restrictions, as to their use, as set forth in the individual and separate contractual agreements.

In the event of such termination of this agreement, ENGINEER will not be entitled to perform any other work on one or more of the PROJECTS listed in the preamble of this Agreement.

#### **F. COALINGA BUSINESS LICENSE/SATELITE OPERATION**

ENGINEER must have and maintain throughout the term of this Agreement: 1) a current business license with the City of Coalinga; 2) consider leasing a satellite operation location in the City of Coalinga.

#### **G. ATTORNEY'S FEES**

In the event either party commences legal action or arbitration to enforce or interpret any provisions of the Agreement, the prevailing party in such action or arbitration shall be entitled to recover from the losing party reasonable attorney's fees, court costs and legal expenses in the amounts determined by the court or tribunal having jurisdiction.

#### **H. GOVERNING LAW**

The provisions of this Agreement shall be interpreted and enforced, and the rights and duties (both procedural and substantive) of the parties hereunder shall be determined, according to California law.

Any legal action in connection with this Agreement shall be instituted in the Superior Court of the County of Fresno, California or in the Federal District Court for the Eastern District of California, as appropriate.

Service of process for any legal action in connection with this Agreement shall be made (i) on the OWNER by personal service on the City Manager of the City, or in any other manner as may be provided by California law, or (ii) on the ENGINEER by personal service on the owner or partner of the ENGINEER or in such other manner as may be provided by law, whether made in or out of California.

#### **I. NON-COLLUSION**

No member, officer or employee of the OWNER shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement, where such interest or decision is prohibited by law.

#### **J. AMENDMENTS TO AGREEMENT**

Waiver of any provision of this Agreement must be in writing and signed by a duly authorized representative of each party.

This Agreement may be amended, and the provisions of this Agreement may be waived, only in writing signed by duly authorized representatives of the OWNER and the ENGINEER, after approval by their respective board of directors.

This Agreement integrates all of the terms, conditions, agreements and understandings between the OWNER and ENGINEER concerning the matter described in this Agreement. The Agreement supersedes all negotiation and previous agreements and understandings between the parties concerning such matters.

#### **K. NOTICE**

All notices in connection with this Agreement shall be in writing and shall be given by personal delivery or first-class U.S. mail, postage prepaid, to a party at its respective address below:

To the OWNER:

Director of Public Works  
City of Coalinga  
155 W. Durian Avenue  
Coalinga, CA 93210

To the ENGINEER:

Mr. Oscar M. Ramirez, P.E.  
Tri-City Engineering  
4630 W. Jennifer Ave., Ste 101  
Fresno, CA 93722

Notices given by personal delivery shall be effective upon delivery, notice given by mail shall also be given by FAX and be effective upon receipt or fifteen days after the postmark date, whichever is earlier.

IN WITNESS WHEREOF, the parties hereto have made and executed the Master Engineering Services Agreement as of the day and year first above written.

\* \* \*

For the ENGINEER

*Charles L. King*, Principal  
Name, Title

December 05, 2000  
Date

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For the CITY OF COALINGA

*Arnold E. Ruder*  
MAYOR

12-1-00  
Date

Approved as to Form:

Approved Risk Management,  
Cash Flow, and Financial

*Dale Bacigalupi* 12/7/00  
Dale Bacigalupi, City Attorney Date

Reporting Provisions:

*Patrick O'Reilly* 12-7-00  
Patrick O'Reilly Date  
Administrative Services Director

Approved for Public Works and Utilities Department Needs, Policies, and Operational Practices:

*Tammy Rudock* 12/7/00  
Tammy Rudock Date  
Public Works Director

*Rebe A. Ramirez* 12/7/00  
Rebe A. Ramirez Date  
Utilities Director