



FINANCE COMMITTEE AGENDA

Tuesday, May 8, 2018

8:30 AM

Executive Conference Room, Level Three
Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

MEMBERS: Council Member Cecilia Hupp and Council Member Marty Simonoff
ALTERNATE: Mayor Glenn Parker

Materials related to an item on this agenda submitted to the Finance Committee after distribution of the agenda packet are available for public inspection in the third floor lobby of the Civic and Cultural Center at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

CALL TO ORDER / ROLL CALL

1. Matters from the Audience

CONSENT

2. Approval of Minutes of April 24, 2018 Special Meeting

Attachment

[Minutes](#)

3. [Amendment to Professional Services Agreement with Fuscoe Engineering, Inc., for Support Services Related to Compliance with Water Quality Regulations](#)

Attachments

[Amendment](#)

[NPDES Services - Fuscoe](#)

[PSA](#)

DISCUSSION

4. Schedule Next Meeting: May 29, 2018

cc: Mayor Pro Christine Marick
Council Member Steven Vargas

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 990-7757. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

NOTE: This agenda is subject to amendments up to 72 hours prior to the meeting date.

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members
FROM: Bill Gallardo
DATE: 05/08/2018
SUBJECT: Approval of Minutes of April 24, 2018 Special Meeting

Attachment

Minutes



SPECIAL FINANCE COMMITTEE MINUTES

**Tuesday, March 24, 2018
4:00 PM**

Executive Conference Room, Level Three
Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

CALL TO ORDER / ROLL CALL

ATTENDEES: Mayor Glenn Parker, Council Member Cecilia Hupp, Chris Emeterio, John Conklin, David Crabtree, Tony Olmos, Cindy Russell, Bill Bowlus, John Burks, Steve Kooyman, Faith Madrazo, Sean Matlock, Alicia Brenner, Jenn Colacion and Adam Hawley.

1. Matters from the Audience - *None*

CONSENT

2. Approval of Action Minutes for the March 27, 2018 and April 10, 2018 Meetings – *Receive and File.*
3. Annual Engineer's Report for Maintenance Districts Nos. 1, 2, 3, 4, 5, 6 and 7 – *Recommended for City Council approval.*
4. Budget Adjustments to the City Operating and Capital Improvement Program Budgets for Fiscal Year 2017-18 – *Forward to City Council with no recommendation.*
5. Budget Adjustments to the Successor Agency to the Brea Redevelopment Agency Operating Program Budgets for Fiscal Year 2017-18 – *Forward to City Council with no recommendation.*

DISCUSSION

6. Schedule Next Meeting: May 8, 2018
Meeting adjourned: 4:16 AM

cc:

Mayor Pro Tem Christine Marick
Council Member Marty Simonoff
Council Member Steven Vargas

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 05/08/2018

SUBJECT: Amendment to Professional Services Agreement with Fuscoe Engineering, Inc. for Support Services Related to Compliance with Water Quality Regulations

RECOMMENDATION

Approve and execute Amendment to Professional Services Agreement in the amount of \$35,500 and authorize the City Manager to approve an additional year in an amount not-to-exceed \$35,500.

BACKGROUND/DISCUSSION

Fuscoe Engineering, Incorporated (FEI) has helped the City of Brea remain compliant with the National Pollution Discharge Elimination System (NPDES) program for over 11 years. This is a federally mandated program under the Clean Water Act. FEI has created an active inventory of Construction Sites, Industrial/Commercial Business, and Public Facilities. Pursuant to NPDES federal requirements, FEI continues to assist with the classification of each facility as high, medium or low priority based on their pollution potential. FEI has performed periodic inspections of inventoried facilities for violations of the City's Water Quality Ordinance and provided management of the program during the time period. The City's stormwater database has assisted City staff in tracking these maintenance requirements.

With the assistance of FEI, the City has been able to remain in compliance with the MS4 Permit, which is a permit issued to the local government agency responsible for complying with the federal rules under NPDES. The City of Brea has been successful in reducing the cost of the consultant over the last 11 years and now only uses their services for technical guidance on new permit development and assessment support of the overall program to remain in compliance with the permit. Over the years, the City has been able to reduce FEI's original contract from \$131,000 to \$29,500 per fiscal year by in-house staff performing more of the work. However, with new permit requirements and regulations, the City will need to increase FEI's contract to \$35,500 per year.

In May 2015, staff sent out a request for proposals for the NPDES Stormwater Management Services to four environmental firms. FEI was the only firm that submitted a proposal. In June 2015, City Council approved an agreement with FEI in the amount of \$29,500 with the ability to extend for two (2) additional years. Due to exceptional performance, FEI's contract was extended for two more years. The current agreement expires on June 16, 2018. Since the agreement only allowed for said extensions, City Council action is needed for any additional extensions. If this amendment is approved, and an additional extension is

granted in 2019, the total aggregate contract amount for the agreement plus all amendments shall not exceed \$159,500 (\$29,500 per year for first three years, plus \$35,500 per year for the next two years).

Staff feels confident in recommending approval of this amendment to agreement with FEI, given FEI's exceptional performance and high customer service levels. In addition to preparing the annual report, FEI's expanded scope of work includes, but is not limited to: revising our Local Implementation Plan, technical guidance with NPDES permit compliance, NPDES Database upgrades/maintenance and review of Water Quality Management Plans (WQMP's). All of these services are needed to guide and keep the City in compliance with the NPDES Permit.

SUMMARY/FISCAL IMPACT

Since FEI has provided exceptional service over the past 11 years, and their proposed fee is fair and reasonable based on past comparisons, staff recommends approving and executing Amendment #4 to the Professional Services Agreement and authorizing the Purchasing Agent to issue as-needed purchase orders based on available budget appropriations for each fiscal year in which they occur.

Funds are available in the NPDES account using Stormwater Fees as the funding source. There is no impact to the General Fund.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Brian M. Ingallinera, Environmental Services Coordinator

Concurrence: Tony Olmos, Public Works Director

Attachments

Amendment #4

NPDES Services-Fusco

PSA Fusco

AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT

This Amendment to Professional Services Agreement is made and entered into this 15th day of May 2018, between the City of Brea, a Municipal Corporation (hereinafter referred to as “CITY”) and FUSCOE ENGINEERING, INC. (hereinafter referred to as “CONSULTANT”).

A. Recitals

- (i) CITY and CONSULTANT have previously entered into an Agreement for Professional Services with respect to NPDES Stormwater Management Services dated June 16, 2015.
- (ii) CITY desires to retain CONSULTANT to perform additional professional services as part of the scope of the amended Agreement.
- (iii) CONSULTANT has been directed to complete additional services as related to tasks contained in the existing contract. The additional services include Technical Guidance, WQMP Plan Check, PEA Support, Brea SIMS Database copy of CONSULTANT’s proposal is attached as Exhibit A.

NOW, THEREFORE, it is agreed by and between CITY and CONSULTANT as follows:

B. Agreement

The Agreement dated June 16, 2015 shall remain in full force and effect except as amended below:

AA. Section 3(a) of the Agreement is modified as follows:

3(b) The maximum payment by CITY to CONSULTANT for the performance of the services provided shall be increased thirty five thousand-five hundred dollars and zero cents (\$35,500) for a revised contract total not-to-exceed of (\$159,500.00). It will be the CITY’s sole discretion to authorize the use of any contingency funds and the CITY

must give this authorization to CONSULTANT in writing prior to the commencement of said work. The amount above shall include all reimbursable costs associated with the work, such as travel time, mileage, overhead and incidentals required to perform the services.

BB. Entire Agreement: This amended Agreement supersedes any and all other Agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party, which is not embodied herein, nor any other Agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing signed by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this amended Agreement as of the day and year first set forth above:

CONSULTANT

CITY

Mayor

ATTEST

City Clerk

Attachment:
Exhibit A



Irvine
San Diego
Ontario
Los Angeles
El Centro
San Ramon
Mission Hills

March 27, 2018

Mr. Brian Ingallinera
CITY OF BREA
1 Civic Center Circle
Brea, CA 92821

Re: Proposal – Brea Stormwater Program Support for 2018/2019 Fiscal Year

Dear Brian:

Attached for your review is our Scope of Services and Fee Proposal for Stormwater Program Support for the 2018/2019 Fiscal Year. The proposal is similar to last year's proposal for technical support and includes tasks for WQMP Plan Checks, technical support, Stormwater Inspection & Management System (SIMS) database annual subscription and the annual PEA Assessment.

Fusco Engineering is pleased we've been invited again to assist the City of Brea and we wish to thank you for your continued confidence in our performance. We look forward to working with you over the coming fiscal year and to continue to advance the City's Stormwater Program.

We are confident you will be pleased with the level of service our professional staff will deliver for your City. Upon approval of the proposal, please initial and sign in the indicated areas and return via mail or fax to (949) 474-5315 to the attention of Jenette Geyer or myself as our authorization to proceed. Please contact me if you have any questions or comments.

Sincerely,

FUSCOE ENGINEERING, INC.

A handwritten signature in blue ink, appearing to read "HW", followed by a horizontal line.

Howard Wen, CPSWQ
Project Manager

HW:ia

Enclosures



Irvine
San Diego
Ontario
Los Angeles
El Centro
San Ramon
Mission Hills

Exhibit A
Scope of Services & Fee Proposal
City of Brea
Brea FY 2018/2019 Stormwater Program Support

March 27, 2018

PROJECT DESCRIPTION

Provide Stormwater Program technical support services to the City of Brea for the 2018/2019 fiscal year.

STORMWATER MANAGEMENT

Task 1. Technical Guidance & Compliance Support

Provide technical support of the City's MS4 Storm Water Program on an as-needed basis including LIP Revisions based on County-wide DAMP (i.e. Model WQMP, TGD) updates, supplemental staff training, and Trash Provisions TMDL Track 1 updates as budget permits. Assist the City with the technical evaluation of Watershed Plans and TMDL compliance for the San Gabriel River-Coyote Creek Watershed.

Hourly (*Estimate) \$12,500

Task 2. WQMP Plan Check

Provide plan check services for project specific Water Quality Management Plans (WQMPs) submitted to the City of Brea for approval. This includes both private and public agency project WQMPs. Final approval of all WQMPs will be performed by City Staff. This task only includes plan checking and approval of water quality calculations, BMP selection, BMP sizing and appropriate water quality documentation including conformance with WQMP Checklist and consistency with the precise grading plans. It does not include plan checking or approval of any precise grading plans, storm drain plans or any other drainage, hydrology/hydraulic, and/or flood control submittals for the proposed projects. The hourly fee estimate assumes a total of two (2) WQMP plan checks for Capital Improvement Projects (CIP) and as-needed for private projects. Any additional CIP WQMP plan check requests will be billed in accordance with the assumptions stated above. This budget estimate acknowledges that private project WQMPs are a pass-through cost to the developer.

Hourly (*Estimate) \$3,500

full circle thinking®

Scope of Services & Fee Proposal

City of Brea

Brea FY 2018/19 Stormwater Program Support

March 27, 2018

Task 3. 2017/2018 Program Effectiveness Assessment Support

FEI will assist the City with the data analysis and trends analysis in conformance with the PEA standards. Data analysis will include the use of GIS to evaluate special and temporal data compiled through PEAs of past years. FEI will assist the City with developing adequate responses for the PEA and setting goals for the following fiscal year. Lastly, FEI will assist the City with the compilation of the final PEA submittal. Three (3) digital and one (1) hardcopy format will be provided to the City for submittal to the Santa Ana Regional Water Quality Control Board and for the City's own record keeping purposes.

Note: City staff responsible for compiling data, inputting inspections into databases, and providing FEI staff with all necessary data in an organized format to perform the trends analysis.

Hourly (*Estimate) \$11,500

Task 4. Brea SIMS Annual Subscription

The Brea SIMS Annual Subscription provides access to the SIMS online database for City staff for use in their tracking of properties and stormwater inspections. The subscription covers software patches for bug fixes, security vulnerability, performance improvements, and reporting improvements.

Fee \$5,000

Task 5. Brea SIMS Customization

The Brea SIMS Annual Subscription provides access to the SIMS online database for City staff for use in their tracking of properties and stormwater inspections. The subscription covers software patches for bug fixes, security vulnerability, performance improvements, and reporting improvements.

Hourly (*Estimate) \$2,500

Reproducibles \$500

STORMWATER MANAGEMENT TOTAL \$35,500

***Not to exceed without prior authorization**

This Fee Proposal is Valid for Ninety (90) Days from the Date of this Document.

Fusco Engineering, Inc. will perform the services on a fixed fee basis, except where noted. Services rendered outside of the scope will be performed at prevailing hourly rates. Costs of reprographics, deliveries and out-of-pocket expenses are not included and will be considered reimbursable. A 10% surcharge will be added to the reimbursables to cover handling expenses.

Scope of Services & Fee Proposal

City of Brea

Brea FY 2018/19 Stormwater Program Support

March 27, 2018

It is the policy of Fuscoe to meet all schedule requirements while maintaining a competent and professional level of service. In return, it is expected that all invoices will be paid within thirty (30) days of receipt. Failure to do so could result in cessation of services and/or reassessment of service.

Scope of Services & Fee Proposal

City of Brea

Brea FY 2018/19 Stormwater Program Support

March 27, 2018

SUMMARY OF SCOPE OF WORK AND FEES

Task 1.	Technical Guidance & Compliance Support	Hourly (*Est.)	\$12,500
Task 2.	WQMP Plan Check	Hourly (*Est.)	\$3,500
Task 3.	2016/2017 PEA	Hourly (*Est.)	\$11,500
Task 4.	Brea SIMS Annual Subscription	Fee	\$5,000
Task 5.	Brea SIMS Database Customization	Hourly (*Est.)	\$2,500
	Reproducible Budget		\$500
TOTAL			\$35,500.00

1.0 AVAILABLE OPTIONAL SERVICES

- 1.1 Preparing for and attending meetings, presentations or hearings beyond those fairly called for in the Basic Services as requested by Client or reasonably necessary to facilitate the Project, and assisting Client in any reasonable or appropriate manner in challenging the decisions of any government or quasi-governmental agency concerning the Project.
- 1.2 Providing presentation materials not fairly called for by the Basic Services such as colored renderings, models and computer modeling.
- 1.3 Making revisions to plans or other documents when such revisions are (i) inconsistent with approvals or instructions previously given by Client, including revisions made necessary by changes in the Project program, budget, scheduling or phasing; (ii) required by the enactment, amendment or revised interpretation of codes, zoning, building ordinances or other governmental requirements subsequent to the preparation of such documents, or by discretionary decisions by building officials or inspectors inconsistent with prior approvals; or (iii) due to changes required as the result of the Client's failure to render decisions in a timely manner or to field or other conditions of which Consultant was not fairly informed.
- 1.4 Providing services (i) because of Project changes concerning size, quality, complexity, schedule, phasing or the method of procuring construction contracts; (ii) required due to a Project suspension, or changes in Project management, or by defects or deficiencies in the work or services provided by or the termination of other consultants or any Project contractor or in connection with contractor proposals or claims; or (iii) due to conditions or circumstances not now anticipated or reasonably foreseeable.

2.0 SERVICE CLARIFICATIONS

- 2.1 Consultant's services will be performed in a timely manner consistent with good professional practice and the desire that the Project proceeds as expeditiously as practical; and it will use its best efforts to meet any mutually agreed upon schedule, which schedule will be adjusted only for reasonable cause or by mutual consent.
- 2.2 Consultant's services will be performed in accordance with generally and currently accepted design professional principles and practices as embodied in the standard procedures and protocols of Consultant and its sub-consultants, and without warranties, either expressed or implied. In particular, Consultant will use its best professional judgment in interpreting and applying the requirements of all laws applicable to the services such as building codes, grading ordinances, accessibility requirements and statutory functionality standards; but compliance with these laws as they may eventually be interpreted by others cannot be guaranteed. In no event will Consultant guarantee cost, schedule or quantity estimates or projections, or any prognostications as to future events, including the discretionary

full circle thinking®

Scope of Services & Fee Proposal

City of Brea

Brea FY 2018/19 Stormwater Program Support

March 27, 2018

- decisions of governmental officials; and when used in conjunction with the providing of services pursuant to this Agreement, such terms as “certify,” “warrant,” “confirm,” “make sure,” “insure,” “ensure,” “assure,” or the like do not constitute a guarantee, but rather a representation based on professional opinion or judgment.
- 2.3 All instruments of service provided pursuant to this Agreement including plans, calculations and estimates shall, unless expressly agreed otherwise in writing, be prepared pursuant to Consultant’s standard procedures and protocols and in its standard formats and level of quality and detail.
- 2.4 Consultant will undertake professional responsibility for only the design professional services expressly undertaken by this Agreement, and not otherwise; and in particular Consultant will not be legally liable for providing or failing to provide services (i) concerning legal, financial, planning or environmental matters; (ii) soils, geotechnical, hazardous waste/toxic substances, traffic, electrical, mechanical or structural engineering; or (iii) landscape architectural or irrigation design. Further and without limitation, Consultant will not be responsible for delays or other matters beyond its reasonable control; for inaccurate or incomplete information provided by Client or other reasonably reliable sources; for services or instruments of service provided by others even if incorporated into Consultant’s instruments of service for ease of reference or otherwise; for any subsurface site conditions or any surface or other conditions of which it has not been timely Informed; for hazardous materials or toxic substance at the Project site; or for the actions or inaction of others including other consultants, utility companies and governmental or quasi-governmental agencies.
- 2.5 In no event will Consultant serve as, supervise or have any responsibility for the performance of any construction contractors; and in particular Consultant will have no responsibility for construction means, methods, techniques, sequences or procedures including without limitation excavation or shoring procedures or for any construction safety procedures or programs.
- 2.6 Consultant’s work shall be based upon a fully dimensioned Client approved site plan in an AutoCAD format at start of final engineering phase. Subsequent changes, modifications and/or revisions to the site plan after Consultant begins the final engineering phase, which cause Consultant to revise portions and/or all of said work, shall be considered as “Additional Services” and subject to separate scope and fee negotiations.
- 2.7 Consultant’s work shall be based upon a Client provided geotechnical investigation report identifying the existing soil characteristics, recommended pavement thickness and recommended site and building grading requirements and/or specifications prior to the start of the work. Subsequent changes, modifications and/or revisions to the report after Consultant begins work, which cause Consultant to revise portions and/or all of said work, shall be considered as “Additional Services” and subject to separate scope and fee negotiations.
- 2.8 Consultant’s work shall be based upon a Client provided owner’s design requirements/criteria, local agency conditions of approval, local agency conditional use permit, etc., prior to the start of the work. Receipt of said documents after Consultant begins work, which cause Consultant to review portions and/or all of said work, shall be considered as “Additional Services” and subject to separate scope and fee negotiations.
- 2.9 Consultant assumes that perimeter streets and existing water, sewer, storm drains, gas, electrical, and telephone utilities are of sufficient size and capacity for the proposed development. Should improvement plans be required to upgrade or modify said existing improvements, then the preparation of said plans shall be considered “Additional Services” and subject to separate scope and fee negotiations.
- 2.10 The Scope of Services for final engineering shall be considered 100% complete upon the technical approval of the plans by the reviewing agencies.
- 2.11 Any work resulting from changes to current standards, ordinances, and/or governing agency personnel after the date of the Agreement which materially impact the design or processing of this Project or

full circle thinking®

Scope of Services & Fee Proposal

City of Brea

Brea FY 2018/19 Stormwater Program Support

March 27, 2018

which results in re-design or material changes in the design shall be performed as "Additional Services" and subject to separate scope and fee negotiations.

- 2.12 Consultant will not be responsible for supervision of contractor's employees nor direct supervision of construction crews.
- 2.13 Those items of work not specifically addressed in the Data and Assumptions and Scope of Services shall not be considered a part thereof, and shall be considered as "Additional Services" and subject to separate scope and fee negotiations.
- 2.14 Improvement plans for sewer, water, and public streets will be prepared at a scale of 1"=40' and will include a plan view and profile of the centerline of the improvement. Additionally, street improvement plans will include profiles of the top of curb where the curb and gutter are being constructed from the plans prepared hereunder. Intersection details showing grading contours are not anticipated and are not included. Striping plans are not included unless specifically stated elsewhere in the Scope of Services, and shall constitute "Additional Services" and be subject to separate scope and fee negotiation.

3.0 CLIENT RESPONSIBILITIES

In conjunction with Consultant's performance, and as a material factor in the determination of Consultant's fee, Client shall make reasonable efforts to cooperate with Consultant including without limitation:

- 3.1 Designate a single representative with appropriate authority with whom Consultant can deal; and direct all communications to Consultant's project manager.
- 3.2 Provide all relevant Project information to Consultant in a timely manner; and respond to Consultant's questions and requests for information and approval within a reasonable time.
- 3.3 Provide appropriate coordination with and among the Project's various consultants.
- 3.4 Refrain from authorizing or allowing recorded or unrecorded deviations from Consultant's instruments of service, or the use of Consultant's unfinalized instruments of service for estimating or other purposes without Consultant's knowledge and consent.

4.0 FEE

- 4.1 Consultant's Additional Services fee shall be pursuant to its then current fee schedule (copy of current schedule attached), or as the parties may otherwise agree at the time the services are undertaken.
- 4.2 The reimbursable expenses for which Client shall be responsible at a multiple of 1.10 include those costs reasonably and appropriately incurred for the Project for such matters as document reproduction, deliveries, travel, long distance telephone and facsimile charges, and any fees or costs advanced by Consultant as a Client accommodation.
- 4.3 Consultant will provide Client with monthly invoices accurately reflecting as appropriate the progress of the services and current expenditures of professional time and reimbursable expenses. Each invoice shall be due and payable upon receipt, and delinquent 30 days after its date. In the event of delinquency, interest shall accrue from the invoice date at 1.5% per month, compounded monthly, or the highest rate permitted by applicable law, whichever is lower, with payments applied first to accrued interest, and Consultant shall have the right to suspend performance and to withhold or withdraw any instruments of service or related licenses with no liability for so doing. No deductions shall be made from Consultant's compensation on account of problems or losses for which Consultant has not been held legally liable. Consultant's fee will be equitably adjusted in the event of significant changes in the Project's scope, sequencing, phasing or scheduling, should prevailing wage requirements be imposed upon Consultant, or should Client expressly request expedited performance.



Irvine
San Diego
Ontario
Los Angeles
El Centro
San Ramon
Mission Hills

EXHIBIT B

2018 RATE SCHEDULE

CLASSIFICATION	HOURLY RATE
Principal / Sr. Project Manager	\$222
Project Manager	\$192
Sr. Designer / Sr. Engineer / Sr. Water Resource Engineer	\$165
Designer / Engineer / Project Scientist / GIS Analyst	\$146
CADD / Engineering / Environmental Tech. / Graphics Tech.	\$119
Information Coordinator	\$ 84
1-Man Survey Crew	\$200
2-Man Survey Crew	\$290
3-Man Survey Crew	\$400

1. Reproduction and other reimbursable expenses (such as overnight deliveries, mileage, permits, and licenses, etc.) and client approved subcontractor services will be billed in addition to the above rates, with a 10% handling surcharge.
2. This rate schedule is subject to change due to the granting of wage increases and/or other employer benefits to field or office employees during the lifetime of this agreement.
3. Overtime is available for critical deadlines at 1-1/2 times the normal rates for office employees. Surveyors' rates are also adjusted automatically for overtime or holiday/weekend work in agreement with the Operating Engineers Union.

Client Initials _____

Effective 11/01/2017

full circle thinking®



Irvine
San Diego
Ontario
Los Angeles
El Centro
San Ramon
Mission Hills

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is entered into on this _____ day of _____ 2018, by and between:

Client

and Consultant

City of Brea

Fusco Engineering, Inc.

1 Civic Center Circle
Brea, CA 92821

16795 Von Karman Ave., Suite 100
Irvine, CA 92606

Phone: 714.990.7760

Phone: 949.474.1960

Fax: 714.990.2258

Fax: 949.474.5315

E-mail: BrianI@ci.brea.ca.us

E-mail: hwen@fuscoe.com

Contact: Brian Ingallinera

Project Manager: Howard Wen

Client and Consultant agree as follows:

1. Client retains Consultant to perform services for: **Brea FY 2018-2019 Stormwater Program Support**; hereinafter called "Project."
2. Consultant agrees to perform the following scope of services: attached hereto as Exhibit A.
3. Client agrees to compensate Consultant for such services outlined in Exhibit A, pursuant to Rate Schedule attached hereto as Exhibit B.
4. Consultant's services will be performed in a timely manner consistent with good professional practice and the desire that the Project proceed as expeditiously as practical, and Consultant will use its best efforts to meet any reasonable Project schedule which shall be extended for reasonable cause or by mutual consent.
5. Consultant will be legally liable for only the civil engineering services expressly undertaken pursuant to this Agreement, and not otherwise. Consultant will not be legally liable for the providing of, or the failure to provide legal, environmental, financial analysis, or geotechnical, soils, structural, mechanical, electrical or other engineering services, even if information from others is incorporated into Consultant's instruments of service for ease of reference or otherwise. Further, and without limitation, Consultant will not be responsible for delays or other matters beyond its reasonable control; for inaccurate information provided to it by Client or other reasonably reliable sources; for site conditions of which it was not informed; for hazardous materials or toxic substances at the Project site; for construction means, methods, techniques, sequences or procedures, including without limitation excavation, shoring, demolition or erection procedures or construction safety precautions and programs; for the timeliness or quality of contractor performance or for the failure of any contractor to perform work in accordance with the Project's construction documents; or for actions or inaction of third parties including other consultants, utility companies and governmental or quasi-governmental agencies.
6. In recognition of the relative risks, rewards and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent allowed by law,

full circle thinking®



Irvine
San Diego
Ontario
Los Angeles
El Centro
San Ramon
Mission Hills

to limit the total aggregate liability for any and all claims, losses, expenses, or damages arising out of this Agreement, of Consultant and its employees, agents and subconsultants, to Client and Client's affiliated individuals and entities, contractors and successors and assigns, to the amount of Consultant's fee received concerning the Project. Client further agrees to indemnify and hold Consultant, its employees, agents and subconsultants, harmless from all damage, liability and cost, including attorney's fees, arising out of this Agreement or relating to the Project excepting only those damages, liabilities or costs caused by the negligence or willful misconduct of Consultant.

7. The parties acknowledge that each is a business entity, and that each intends that its involvement with the Project should not subject its affiliated individuals to personal exposure for the risks attendant to that involvement; and therefore any claim which either party has or might have concerning the Project and or this Agreement shall be asserted only against the other's business entity.
8. Consultant shall maintain professional liability, general liability and workers compensation insurance.
9. To the extent any damage, liability, loss, expense or cost, including attorney's fees, is caused by a negligent act, error, or omission of Consultant, or any person employed by Consultant, and arises out of the performance of this Agreement, Consultant shall indemnify and hold the Client harmless therefrom.
10. This Agreement supersedes all negotiations and prior agreements concerning the Project and is intended as a complete and exclusive statement of the entire Agreement between Client and Consultant concerning the Project. Subsequent modifications to this Agreement shall be in writing and signed by both Client and Consultant.
11. This Agreement shall be interpreted and enforced under and pursuant to the laws of the State of California. In the event of any dispute concerning this Agreement and/or the Project, each party shall bear its own attorney's fees. The venue for any dispute shall be Orange County, California.
12. The Parties hereby mutually waive any claims for consequential damages which either might have against the other concerning this Agreement or its termination.

CLIENT:

CONSULTANT:

CITY OF BREA

FUSCOE ENGINEERING, INC.

By: _____

By: _____

(Signature)

(Signature)

Title: _____

Title: _____

Date: _____

Date: _____

full circle thinking®

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 16th day of June, between the City of Brea, a Municipal Corporation (hereinafter referred to as "CITY") and **Fusco Engineering, Inc.** (hereinafter referred to as "CONSULTANT").

A. Recitals

(i) CITY has heretofore requested a proposal pertaining to the performance of professional services with respect to **NPDES Stormwater Management Services 2015/16 FY** ("Tasks" hereafter), a full, true and correct copy of which is attached hereto as Exhibit "A" and by this reference made a part hereof.

(ii) CONSULTANT has now submitted its proposal to complete said Tasks, a full, true and correct copy of which proposal is attached hereto as Exhibit "A" and by this reference made a part hereof.

(iii) CITY desires to retain CONSULTANT to perform professional services necessary to render advice and assistance to CITY, CITY's Planning Commission, City Council and staff to complete said Tasks.

(iv) CONSULTANT represents that it is qualified to perform such services and is willing to perform such professional services as hereinafter defined.

NOW, THEREFORE, it is agreed by and between CITY and CONSULTANT as follows:

B. Agreement

1. **Definitions**: The following definitions shall apply to the following terms, except where the context of this Agreement otherwise requires:

(a) **Tasks**: The provision of professional consulting advice and assistance as described in Exhibit "A" hereto including, but not limited to, the preparation of maps, surveys,

reports, and documents, the presentation, both oral and in writing, of such plans, maps, surveys, reports and documents to CITY as required and, as directed, attendance at any and all work sessions, public hearings and other meetings conducted by CITY with respect to said services.

(b) Services: Such professional services as are necessary to be performed by CONSULTANT in order to complete the assigned Tasks. The Consultant will provide services on an "as-needed" basis for projects to be determined during the term of the contract. The contract will be for a one-year term with provisions for two-one year extensions with the total term not exceeding three years.

(c) Completion of Tasks: The date of completion of all assigned Tasks, including any and all procedures, plans, maps, surveys, plan documents, technical reports, meetings, oral presentations and attendance by CONSULTANT at public hearings.

2. CONSULTANT agrees as follows:

(a) CONSULTANT shall forthwith undertake and complete assigned Tasks in accordance with Exhibits "A" hereto and all in accordance with Federal, State and CITY statutes, regulations, ordinances and guidelines, all to the reasonable satisfaction of CITY.

(b) CONSULTANT shall supply copies of all maps, surveys, reports, plans and documents, including all supplemental technical documents (hereinafter collectively referred to as "documents"), as described in Exhibits "A" to CITY within the time specified by CITY's written notice to proceed with any assigned Tasks. Copies of documents shall be in such numbers as are required in CITY. CITY may thereafter review and forward to CONSULTANT comments regarding said documents and CONSULTANT shall thereafter make such revisions to said documents as are deemed necessary. CITY shall receive revised documents in such form

and in the quantities determined necessary by CITY. The time limits set forth in said written notice to proceed may be extended upon written approval of CITY.

(c) CONSULTANT shall, at CONSULTANT's sole cost and expense, secure and hire such other persons as may, in the opinion of CONSULTANT, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by CONSULTANT, CONSULTANT hereby warrants that such persons shall be fully qualified to perform services required hereunder. CONSULTANT further agrees that no subcontractor shall be retained by CONSULTANT except upon the prior written approval of CITY.

3. CITY agrees as follows:

(a) To pay CONSULTANT pursuant to the provisions of Exhibit "A" Services required hereunder. Said sum(s) shall cover the cost of all staff time and all other direct and indirect costs or fees, including the work of employees, consultants and subcontractors to CONSULTANT, except as may otherwise be set forth in Exhibit "A". Payment to CONSULTANT, by CITY, shall be made in accordance with the schedule set forth below.

(b) Payments to CONSULTANT shall be made by CITY in accordance with the invoices submitted by CONSULTANT, on a monthly basis, and such invoices shall be paid within a reasonable time after said invoices are received by CITY. All charges shall be in accordance with CONSULTANT's proposal either with respect to hourly rates, time and materials, or lump sum amounts for individual tasks, as approved, in writing, by CITY. In no event shall CONSULTANT, or any person claiming by or through CONSULTANT, be paid an aggregate amount not to exceed Twenty Nine Thousand and Five Hundred Dollars (\$29,500).

4. CITY agrees to provide to CONSULTANT:

(a) Information and assistance as set forth in Exhibit "A" hereto.

(b) Photographically reproducible copies of maps and other information, if available, which CONSULTANT considers necessary in order to complete assigned Tasks.

(c) Such information as is generally available from CITY files applicable to assigned Tasks.

(d) Assistance, if necessary, in obtaining information from other governmental agencies and/or private parties. However, it shall be CONSULTANT's responsibility to make all initial contact with respect to the gathering of such information.

5. Ownership of Documents: All documents prepared by CONSULTANT pursuant to this Agreement shall be considered the property of CITY and, upon payment for services performed by CONSULTANT, such documents and other identified materials shall be delivered to CITY by CONSULTANT. CONSULTANT may, however, make and retain such copies of said documents and materials as CONSULTANT may desire.

6. Termination: This Agreement may be terminated by CITY upon the giving of a written "Notice of Termination" to CONSULTANT at least fifteen (15) days prior to the date of termination specified in said Notice. CONSULTANT shall not be compensated for any work performed after receipt of the Notice of Termination. CONSULTANT shall provide to CITY any and all documents, whether in draft or final form, prepared by CONSULTANT as of the date of termination. CONSULTANT may not terminate this Agreement except for cause.

7. Notices and Designated Representatives: Any and all notices, demands, invoices and written communications between the parties hereto shall be addressed as set forth in this Section 7. The below named individuals, furthermore, shall be those persons primarily responsible for the performance by the parties under this Agreement:

CITY REPRESENTATIVE

Eric Nicoll, Public Works Director
City of Brea
1 Civic Center Circle
Brea, CA 92821

CONSULTANT REPRESENTATIVE

Ian Adam, Sr Environmental Res. Manager
Fuscoe Engineering, Inc
16795 Von Karman, Suite 100
Irvine, CA 92606

Any such notices, demands, invoices and written communications, by mail, shall be deemed to have been received by the addressee forty-eight (48) hours after deposit thereof in the United States mail, postage prepaid and properly addressed as set forth above.

8. Insurance: The CONSULTANT shall not commence work under this contract until it has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONSULTANT allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained. The CONSULTANT shall take out and maintain at all times during the life of this contract the following policies of insurance:

(a) Compensation insurance: Before beginning work, the CONSULTANT shall furnish to the CITY a certificate of insurance as proof that it has taken out full compensation insurance for all persons whom the CONSULTANT may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract. Further, such policy of insurance shall provide that the insurer waives all rights of subrogation against CITY and its elected officials, officers, employees and agents.

In accordance with the provisions of Section 3700 of the California Labor Code, every contractor shall secure the payment of compensation to his employees. CONSULTANT, by executing this Agreement, certifies as follows:

"I am aware of the provisions of Section 3700 of the labor Code which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of work of this contract."

(b) For all operations of the CONSULTANT or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

(1) Commercial General Liability (occurrence) - for bodily injury, death and property damage for products/completed operations and any and all other activities undertaken by the CONSULTANT in the performance of this Agreement - - or - -:

(2) (Alternative to Commercial General Liability) - Comprehensive, broad form General Public Liability (occurrence) - for bodily injury, death and property damage arising out of any activities undertaken by CONSULTANT in the performance of this Agreement.

(3) Comprehensive Automobile Liability (occurrence) - for bodily injury, death and property damage insuring against all liability arising out of the use of any vehicle.

(4) Professional Errors and Omissions Liability - insuring against all liability arising out of professional errors and/or omissions, providing protection of at least two million dollars and zero cents (\$2,000,000.00) for errors and/or omissions ("malpractice") of CONSULTANT in the performance of this Agreement. Such policy may be subject to a deductible or retention in an amount acceptable to CITY and shall further be subject to the provisions of subsections (2) and (6) of Section c, below. If a "claims made" policy is provided, such policy shall be maintained in effect from the date of performance of work or services on CITY's behalf until three (3) years after the date the work or services are accepted as completed. Coverage for the post-completion period may be provided by renewal or replacement of the policy for each of the three (3) years or by a three (3) year extended reporting period

endorsement which reinstates all limits for the extended reported period. If any such policy and/or policies have a retroactive date, that date shall be no later than the date of first performance of work or services on behalf of CITY. Renewal or replacement policies shall not allow for any advancement of such retroactive date. Each such policy or policies shall include a standard "notice of circumstances" provision.

(5) Other required insurance, endorsements or exclusions as required by the Request for Proposal.

(6) The policies of insurance required in this Section 8(b) shall have no less than the following limits of coverage:

- (i) \$2,000,000 (Two Million Dollars) for bodily injury or death;
- (ii) \$2,000,000 (Two Million Dollars) for property damage;
- (iii) The total of the limits specified in subsections (i) and (ii), above, where a combined single limit is provided.

(c) The policies of insurance required in subsections (1), (2) and (3) of Section 8(b), above shall:

(1) Be subject to no deductible amount unless otherwise provided, or approved in writing by CITY;

(2) Be issued by an insurance company approved in writing by CITY, which is admitted and licensed to do business in the State of California and which is rated A/ VII or better according to the most recent A.M. Best Co. Rating Guide;

(3) Name as additional insureds the CITY, its elected officials, officers, employees, attorneys and agents, and any other parties, including subcontractors, specified by CITY to be included;

(4) Specify that it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;

(5) Specify that it applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(6) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by CITY of written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."

(7) Specify that any failure to comply with reporting or other provisions of the required policy, including breaches of warranty, shall not affect the coverage required to be provided;

(8) Specify that the insurer waives all rights of subrogation against any of the named additional insureds; and

(9) Specify that any and all costs of adjusting and/or defending any claim against any insured, including court costs and attorneys' fees, shall be paid in addition to and shall not deplete any policy limits.

(10) Otherwise be in form satisfactory to CITY.

(d) Prior to commencing performance under this Agreement, the CONSULTANT shall furnish the CITY with original endorsements, or copies of each required policy, effecting and evidencing the insurance coverage required by this Agreement. The endorsements shall be signed by a person authorized by the insurer(s) to bind coverage on its behalf. All endorsements or policies shall be received and approved by the CITY before CONSULTANT commences performance. If performance of this Agreement shall extend beyond one (1) year,

CONSULTANT shall provide CITY with the required policies or endorsements evidencing renewal of the required policies of insurance prior to the expiration of any required policies of insurance.

9. Indemnification: Other than in the performance of professional services and to the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold CITY, its employees, agents and officials harmless from and against their tort liability, (including liability for claims, suits, actions, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney's fees incurred by CITY, court costs, interest or defense costs including expert witness fees), where the same arise out of, in whole or in part, the performance of the Agreement by CONSULTANT (or any individual or entity that CONSULTANT shall bear the legal liability thereof) and which result in bodily injury or property damage to any individual or entity, including the employees or officials of CONSULTANT.

In addition to the foregoing, CONSULTANT shall indemnify, defend and hold harmless CITY and its officials and employees from and against any and all losses, liabilities, damages, costs and expenses, including reasonable attorney's fees and costs to the extent the same are caused by the professional negligence of CONSULTANT (or any entity or individual that CONSULTANT shall bear the legal liability thereof) in the performance of professional services pursuant to this Agreement.

10. Assignment: No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part, by CONSULTANT without the prior written consent of CITY.

11. Damages: In the event that CONSULTANT fails to complete an assigned Task, together with all documents and supplemental material required hereunder, in form to the

reasonable satisfaction of CITY, within the time set forth in the notice to proceed, or as may be extended by written consent of the parties hereto, CONSULTANT shall pay to CITY, as liquidated damages and not as a penalty, the sum of N/A dollars (\$000.00) per day for each day CONSULTANT is in default, which sum represents a reasonable endeavor by the parties hereto to estimate a fair compensation for the foreseeable losses that might result from such a default in performance by CONSULTANT, and due to the difficulty which would otherwise occur in establishing actual damages resulting from such default, unless said default is caused by CITY or by acts of God, acts of the public enemy, fire, floods, epidemics, or quarantine restrictions.

12. Independent Contractor: The parties hereto agree that CONSULTANT and its employers, officers and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of CITY.

13. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. Attorneys' Fees: In the event any legal proceeding is instituted to enforce any term or provision of the Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the court to be reasonable.

15. Entire Agreement: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be

valid and binding. Any modification of this Agreement shall be effective only if it is in writing signed by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above:

CONSULTANT
Fusco Engineering, Inc.



John Olivier / President

CITY



Mayor

ATTEST:



City Clerk



"Exhibit A"

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

PROJECT DESCRIPTION

Provide NPDES storm water management services to the City of Brea for the 2015/2016 fiscal year.

STORMWATER MANAGEMENT

Task 1. Technical Guidance & Compliance Support

Provide technical support of the City's MS4 Storm Water Program including LIP Revisions based on county-wide LIP update in summer 2015, supplemental staff training, and 5th Term MS4 Permit (Order No. R8-2015-0001) implementation. The consultant will work with the NPDES Coordinator and relevant City Staff in reviewing and identifying the City's current policies and procedures in implementing the City's existing LIP. The consultant will then provide a matrix to identify new 5th Term MS4 Permit requirements and the County-wide LIP revisions that differ from current City LIP policies and procedures, as well as provide an outline of appropriate updates/revisions to the City's LIP. The consultant will update the City's LIP upon approval of the proposed revisions by the City's NPDES Coordinator. Training will be provided, as necessary, on new LIP policies and procedures to relevant City Staff.

The consultant will also assist the City with its participation in the development of the San Gabriel River-Coyote Creek Watershed Plan and TMDL compliance strategies. The consultant will attend permittee meetings and workgroups, as requested by the City. Summary recommendations will be provided to the NPDES Coordinator.

Hourly (*Estimate)

\$7,500

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

Task 2. WQMP Plan Check

Provide plan check services for project specific Water Quality Management Plans (WQMPs) submitted to the City of Brea for approval. This includes both private and public agency project WQMPs. Final approval of all WQMPs will be performed by City Staff. This task only includes plan checking and approval of water quality calculations, BMP selection, BMP sizing and appropriate water quality documentation including conformance with WQMP Checklist and consistency with the precise grading plans. It does not include plan checking or approval of any precise grading plans, storm drain plans or any other drainage, hydrology/hydraulic, and/or flood control submittals for the proposed projects.

A formal plan check checklist will be furnished, along with redline comments within the submitted WQMP. The consultant will also work with the WQMP applicant to address any inconsistencies between the WQMP and submitted engineering plans, as well as ensure that the City's BMP Summary Report is completed by the applicant. All plan check documents will be provided in electronic format to the City.

The hourly fee estimate assumes a total of six (6) WQMP Plan checks and approximately four (4) hours per plan check. Any additional WQMP Plan Check requests will be billed in accordance with the assumptions stated above.

Hourly (*Estimate)

\$3,500

Task 3. NPDES Database Inspection Support

The City's NPDES inspections database will be upgraded to address new 5th Term MS4 Permit requirements. The database will be converted from its current Microsoft Access platform to a web-based platform with GIS interface capabilities. The new web-based platform will incorporate additional features not currently found in the City's current database, which include:

- Administrative hierarchy for NPDES Coordinator and multi-user accounts to allow for designation of permissions for accessing information in the database;

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

- Inspection/Violation notification system for inspectors, administrators and other city employees;
- Web-based inspection and reporting forms for ease of upload/download to the database;
- Real-time data analysis tools including charts and table outputs;
- Reporting summaries per County & RWQCB requirements;
- Inspection Scheduling; and
- Mapping interface to support the creation of inventory maps.

Upon completion of the database development, the existing records in the City's current database will be migrated to the new system. Inspection reports in PDF format will be converted and entered into data fields in the new system. The new system will also be compatible with the County of Orange GIS Cloud data management and hosting system to ensure that data reporting to the County will be feasible.

Note: The City of Brea will assume full responsibility for all inspections, data input, logging, and the day-to-day upkeep of the database and, if necessary, submittal to the Santa Ana Regional Water Quality Control Board.

Hourly (*Estimate)

\$10,000

Task 4. Fiscal Year 2014/2015 Program Effectiveness Assessment Support

Assist the City with the Annual Report data evaluation and historical trends analysis in conformance with the year-end PEA requirements. The consultant will assist the City with tabulating and verifying Unified Report Data to be submitted to the County of Orange. 2014/15 Fiscal Year data will be compared with previous years' data to identify any inconsistencies or deviations, prior to submittal. Assist the City with interpreting the trends observed with storm water program activities (i.e. BMP implementation, inspection violations, trash and debris removal/prevention) and their correlation with pollutant reduction and water quality improvement within the City. The analysis will also include geospatial evaluation of the data using GIS to create map layers to identify potential

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

hotspots within the City for pollutants or non-compliant facilities/sites. Metrics for the PEA will be developed by the consultant via consultation with the NPDES Coordinator. From this analysis, the consultant will work with the City in developing adequate responses or action items for the PEA and setting performance goals for the following fiscal year. Lastly, the consultant will assist the City with the compilation of the final PEA submittal, including charts, figures, and exhibits, as needed.

Note: City staff responsible for compiling data, inputting inspections into databases, and providing the consultant with all necessary data in an organized format to perform the trends analysis.

<i>Hourly (*Estimate))</i>	\$8,500
<i>Reimbursable Allowance</i>	\$500
STORMWATER MANAGEMENT TOTAL	\$29,500

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

****Not to exceed without prior authorization***

This Fee Proposal is Valid for Ninety (90) Days from the Date of this Document.

Fusco Engineering, Inc. will perform the services on a fixed fee basis, except where noted. Services rendered outside of the scope will be performed at prevailing hourly rates. Costs of blue-printing, deliveries and out-of-pocket expenses are not included and will be considered reimbursable. A 10% surcharge will be added to the reimbursables to cover handling expenses.

It is the policy of Fuscoe to meet all schedule requirements while maintaining a competent and professional level of service. In return, it is expected that all invoices will be paid within ninety (90) days of receipt. Failure to do so could result in cessation of services and/or reassessment of service.

4.0 AVAILABLE OPTIONAL SERVICES

- 4.1 Preparing for and attending meetings, presentations or hearings beyond those fairly called for in the Basic Services as requested by Client or reasonably necessary to facilitate the Project, and assisting Client in any reasonable or appropriate manner in challenging the decisions of any government or quasi-governmental agency concerning the Project.
- 4.2 Providing presentation materials not fairly called for by the Basic Services such as colored renderings, models and computer modeling.
- 4.3 Making revisions to plans or other documents when such revisions are (i) inconsistent with approvals or instructions previously given by Client, including revisions made necessary by changes in the Project program, budget, scheduling or phasing; (ii) required by the enactment, amendment or revised interpretation of codes, zoning, building ordinances or other governmental requirements subsequent to the preparation of such documents, or by discretionary decisions by building officials or inspectors inconsistent with prior approvals; or (iii) due to changes required as the result of the Client's failure to render decisions in a timely manner or to field or other conditions of which Consultant was not fairly informed.
- 4.4 Providing services (i) because of Project changes concerning size, quality, complexity, schedule, phasing or the method of procuring construction contracts; (ii) required due to a Project suspension, or changes in Project management, or by defects or deficiencies in the work or services provided by or the

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

termination of other consultants or any Project contractor or in connection with contractor proposals or claims; or (iii) due to conditions or circumstances not now anticipated or reasonably foreseeable.

5.0 SERVICE CLARIFICATIONS

- 5.1 Consultant's services will be performed in a timely manner consistent with good professional practice and the desire that the Project proceeds as expeditiously as practical; and it will use its best efforts to meet any mutually agreed upon schedule, which schedule will be adjusted only for reasonable cause or by mutual consent.
- 5.2 Consultant's services will be performed in accordance with generally and currently accepted design professional principles and practices as embodied in the standard procedures and protocols of Consultant and its sub-consultants, and without warranties, either expressed or implied. In particular, Consultant will use its best professional judgment in interpreting and applying the requirements of all laws applicable to the services such as building codes, grading ordinances, accessibility requirements and statutory functionality standards; but compliance with these laws as they may eventually be interpreted by others cannot be guaranteed. In no event will Consultant guarantee cost, schedule or quantity estimates or projections, or any prognostications as to future events, including the discretionary decisions of governmental officials; and when used in conjunction with the providing of services pursuant to this Agreement, such terms as "certify," "warrant," "confirm," "make sure," "insure," "ensure," "assure," or the like do not constitute a guarantee, but rather a representation based on professional opinion or judgment.
- 5.3 All instruments of service provided pursuant to this Agreement including plans, calculations and estimates shall, unless expressly agreed otherwise in writing, be prepared pursuant to Consultant's standard procedures and protocols and in its standard formats and level of quality and detail.
- 5.4 Consultant will undertake professional responsibility for only the design professional services expressly undertaken by this Agreement, and not otherwise; and in particular Consultant will not be legally liable for providing or failing to provide services (i) concerning legal, financial, planning or environmental matters; (ii) soils, geotechnical, hazardous waste/toxic substances, traffic, electrical, mechanical or structural engineering; or (iii) landscape architectural or irrigation design. Further and without limitation, Consultant will not be responsible for delays or other matters beyond its reasonable control; for inaccurate or incomplete information provided by Client or other reasonably reliable sources; for services or instruments of service provided by others even if incorporated into Consultant's instruments of service for ease of reference or otherwise; for any subsurface site conditions or any surface or other conditions of which it has not been timely Informed; for hazardous materials or toxic substance at the

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

- Project site; or for the actions or inaction of others including other consultants, utility companies and governmental or quasi-governmental agencies.
- 5.5 In no event will Consultant serve as, supervise or have any responsibility for the performance of any construction contractors; and in particular Consultant will have no responsibility for construction means, methods, techniques, sequences or procedures including without limitation excavation or shoring procedures or for any construction safety procedures or programs.
- 5.6 Consultant's work shall be based upon a fully dimensioned Client approved site plan in an AutoCAD format at start of final engineering phase. Subsequent changes, modifications and/or revisions to the site plan after Consultant begins the final engineering phase, which cause Consultant to revise portions and/or all of said work, shall be considered as "Additional Services" and subject to separate scope and fee negotiations.
- 5.7 Consultant's work shall be based upon a Client provided geotechnical investigation report identifying the existing soil characteristics, recommended pavement thickness and recommended site and building grading requirements and/or specifications prior to the start of the work. Subsequent changes, modifications and/or revisions to the report after Consultant begins work, which cause Consultant to revise portions and/or all of said work, shall be considered as "Additional Services" and subject to separate scope and fee negotiations.
- 5.8 Consultant's work shall be based upon a Client provided owner's design requirements/criteria, local agency conditions of approval, local agency conditional use permit, etc., prior to the start of the work. Receipt of said documents after Consultant begins work, which cause Consultant to review portions and/or all of said work, shall be considered as "Additional Services" and subject to separate scope and fee negotiations.
- 5.9 Consultant assumes that perimeter streets and existing water, sewer, storm drains, gas, electrical, and telephone utilities are of sufficient size and capacity for the proposed development. Should improvement plans be required to upgrade or modify said existing improvements, then the preparation of said plans shall be considered "Additional Services" and subject to separate scope and fee negotiations.
- 5.10 The Scope of Services for final engineering shall be considered 100% complete upon the technical approval of the plans by the reviewing agencies.
- 5.11 Any work resulting from changes to current standards, ordinances, and/or governing agency personnel after the date of the Agreement which materially impact the design or processing of this Project or which

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

results in re-design or material changes in the design shall be performed as "Additional Services" and subject to separate scope and fee negotiations.

- 5.12 Consultant will not be responsible for supervision of contractor's employees nor direct supervision of construction crews.
- 5.13 Those items of work not specifically addressed in the Data and Assumptions and Scope of Services shall not be considered a part thereof, and shall be considered as "Additional Services" and subject to separate scope and fee negotiations.
- 5.14 Improvement plans for sewer, water, and public streets will be prepared at a scale of 1"=40' and will include a plan view and profile of the centerline of the improvement. Additionally, street improvement plans will include profiles of the top of curb where the curb and gutter are being constructed from the plans prepared hereunder. Intersection details showing grading contours are not anticipated and are not included. Striping plans are not included unless specifically stated elsewhere in the Scope of Services, and shall constitute "Additional Services" and be subject to separate scope and fee negotiation.

Items specifically excluded from the Agreement consist of, but are not necessarily limited to, the following:

- 5.15 Supplemental topo.
- 5.16 ALTA/ACSM land title survey maps lot line adjustments (after map recordation).
- 5.17 Soils or subsurface investigation.
- 5.18 "Potholing," physically digging to expose objects to be located and measured.
- 5.19 Scheduling, coordination and/or witnessing of fire flow tests to determine available water pressures and fire flows.
- 5.20 Coordination with local gas, electrical, telephone, and cable television companies for the design and/or preparation of plans and/or service agreements for new and/or relocated service facilities.
- 5.21 Preparation, approval or processing of site plan.
- 5.22 Conditional use permit processing.
- 5.23 Utility coordination (quitclaims and/or non-interference letters and will-serve letters).
- 5.24 Tentative map processing through public agencies.
- 5.25 Preparation of legal descriptions and/or plats.
- 5.26 Preparation of easement or grant deeds.

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

- 5.27 Legal descriptions and plats required for annexation, zone changes or zoning maps.
- 5.28 Legal descriptions and plats required for formation of or annexation to maintenance, assessment or other special districts (landscape, water, sewer, etc.).
- 5.29 Final mapping.
- 5.30 Condominium plans.
- 5.31 "Covenants, Conditions and Restrictions" documents.
- 5.32 Excavation plan which may or may not be required by the agency.
- 5.33 Preparation of haul route plan for import/export of soil.
- 5.34 Guard house and gated entry plans.
- 5.35 Plans for the drainage system beneath the buildings.
- 5.36 Preparation of parking lot striping and/or signage plan.
- 5.37 Preparation of landscape plans for softscape areas, hardscape areas, and enhanced pavement areas for driving and/or walking.
- 5.38 Preparation of irrigation system plans.
- 5.39 Preparation of site lighting plan for parking lots and walkways.
- 5.40 Preparation of building fire suppression system plans.
- 5.41 Dry utility services.
- 5.42 Traffic signal plans.
- 5.43 Construction traffic control plan.
- 5.44 Preparation of project specifications and construction agreement.
- 5.45 Construction administration for bidding, award and observation.
- 5.46 Construction phase coordination.
- 5.47 Setting off-site monumentation deemed necessary by the governing authority.
- 5.48 Corner record or certificate tie sheet preparation and filing.
- 5.49 Any work resulting from changes to current standards, ordinances and/or governing agency personnel after the date of the Agreement which materially impact the design or processing of this Project or which

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

results in redesign or material changes in the design shall be performed as "Additional Services" and be subject to separate scope and fee negotiation.

- 5.50 Fees contained in the Agreement do not include title company fees, agency fees, environmental studies, subordination agreements, relocation of franchise utilities, design of on-site franchise utilities, traffic impact studies, or traffic signal design.

6.0 CLIENT RESPONSIBILITIES

In conjunction with Consultant's performance, and as a material factor in the determination of Consultant's fee, Client shall make reasonable efforts to cooperate with Consultant including without limitation:

- 6.1 Designate a single representative with appropriate authority with whom Consultant can deal; and direct all communications to Consultant's project manager.
- 6.2 Provide all relevant Project information to Consultant in a timely manner; and respond to Consultant's questions and requests for information and approval within a reasonable time.
- 6.1 Provide appropriate coordination with and among the Project's various consultants.
- 6.3 Refrain from authorizing or allowing recorded or unrecorded deviations from Consultant's instruments of service, or the use of Consultant's unfinalized instruments of service for estimating or other purposes without Consultant's knowledge and consent.

7.0 FEE

- 7.1 Consultant's Additional Services fee shall be pursuant to its then current fee schedule (copy of current schedule attached), or as the parties may otherwise agree at the time the services are undertaken.
- 7.2 The reimbursable expenses for which Client shall be responsible at a multiple of 1.10 include those costs reasonably and appropriately incurred for the Project for such matters as document reproduction, deliveries, travel, long distance telephone and facsimile charges, and any fees or costs advanced by Consultant as a Client accommodation.
- 7.3 Consultant will provide Client with monthly invoices accurately reflecting as appropriate the progress of the services and current expenditures of professional time and reimbursable expenses. Each invoice shall be due and payable upon receipt, and delinquent 30 days after its date. In the event of delinquency, interest shall accrue from the invoice date at 1.5% per month, compounded monthly, or the highest rate permitted by applicable law, whichever is lower, with payments applied first to accrued interest, and Consultant shall have the right to suspend performance and to withhold or withdraw any instruments of service or related licenses with no liability for so doing. No deductions shall be made

Scope of Services & Fee Proposal

City of Brea

NPDES Stormwater Management Services 2015/16 FY

May 26, 2015

from Consultant's compensation on account of problems or losses for which Consultant has not been held legally liable. Consultant's fee will be equitably adjusted in the event of significant changes in the Project's scope, sequencing, phasing or scheduling, should prevailing wage requirements be imposed upon Consultant, or should Client expressly request expedited performance.



2015
Rate Schedule
Effective 11/01/2014
www.fuscoec.com

2015 RATE SCHEDULE

CLASSIFICATION	HOURLY RATE
Principal / Sr. Project Manager	\$200
Project Manager	\$174
Sr. Designer / Sr. Engineer / Sr. Water Resource Engineer	\$148
Designer / Engineer / Project Scientist / GIS Analyst	\$132
CADD / Engineering / Environmental Tech. / Graphics Tech.	\$108
Information Coordinator	\$ 75
1-Man Survey Crew	\$175
2-Man Survey Crew	\$245
3-Man Survey Crew	\$300

1. Reproduction and other reimbursable expenses (such as overnight deliveries, mileage, permits, and licenses, etc.) and client approved subcontractor services will be billed in addition to the above rates, with a 10% handling surcharge.
2. This rate schedule is subject to change due to the granting of wage increases and/or other employer benefits to field or office employees during the lifetime of this agreement.
3. Overtime is available for critical deadlines at 1-1/2 times the normal rates for office employees. Surveyors' rates are also adjusted automatically for overtime or holiday/weekend work in agreement with the Operating Engineers Union.

Client Initials _____

Effective 11/01/2014

