

## ENGINEERING SERVICES AGREEMENT

This Engineering Services Agreement (“Agreement”) is dated \_\_\_\_\_ (“Effective Date”) and is between Sanitation District No. 2 of Los Angeles County, a county sanitation district organized and existing under the County Sanitation District Act, Health and Safety Code Section 4700 *et seq.*, (“District”) and Carollo Engineers, Inc. (“Engineer”). The District and the Engineer are collectively referred to in this Agreement as the “Parties.”

District requested a proposal for Professional Engineering Services on an on-call basis for various existing and future projects (the “Project”). Engineer’s proposal to provide such services under this Agreement is set forth in Exhibit “A” to this Agreement (the “Proposal”). The services to be provided by Engineer pursuant to the Proposal are set forth in District’s Request for Proposals (“RFP”) for the Project (Exhibit “B” to this Agreement) and constitute the “Work.”

The Parties therefore agree as follows:

### 1. Agreement

The RFP and the Proposal are incorporated into this Agreement. In the event that there is any conflict or inconsistency between the provisions of the RFP, the Proposal and/or this Agreement, the provisions of this Agreement will prevail.

### 2. Engineer’s Services

**21 Scope of Services by Engineer.** The Engineer shall provide design services as described in the Scope of Work in the RFP and this Agreement. In performance of the Work, Engineer shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, and industry practices.

**22 Engineer’s Standard of Care.** The standard of care applicable to Engineer’s Work under the Agreement will be the degree of skill and diligence ordinarily employed by engineers performing the same or similar services, under the same or similar circumstances, in the State of California. If District deems any of Engineer’s Work as not meeting this standard, Engineer shall re-perform the Work without additional compensation.

**23 Engineer’s Estimates and Projections.** Engineer’s opinions regarding the potential cost, financial analyses, economic feasibility projections, and schedules for potential future construction of the project are projections only and do not reflect: the ultimate cost or price of labor and material; unknown or latent conditions of existing equipment or structures that may affect operation and maintenance costs; competitive bidding procedures and market conditions; time or quality of performance of third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate project cost or schedule. Engineer does not warrant that District’s actual project costs, financial aspects, economic feasibility, or schedules will not vary from Engineer’s opinions, analyses, projections, or estimates, but Engineer shall provide such projections in accordance with the standard of care set forth in Section 2.2 of this Agreement.

### 3. District's Obligations

**31 District-Provided Information and Services.** District shall furnish Engineer with available studies, reports and other data pertinent to Engineer's services and obtain or authorize Engineer to obtain additional reports and data as required. Engineer is entitled to use and rely upon all such information and services provided by District or others in performing Engineer's services under the Agreement except as otherwise stated by District in connection with the information and services provided.

**32 Access.** District shall arrange for access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services hereunder. Engineer shall comply with all applicable laws and with District's requirements for persons on District's premises.

### 4. Compensation and Payment for Engineering Services

**41 Engineer's Compensation:** The compensation payable by District for the engineering services performed by Engineer is the sum of: (a) Direct Costs, (b) Overhead Costs, (c) Indirect Costs, (d) Subconsultant Costs (if required), and (e) a Fixed Fee resulting in a "Not to Exceed" cost for Project Task identified in the Scope of Work. The "Not to Exceed" amount for the entirety of the Work is \$2,000,000. The breakdown of expenses for each TAF shall be as follows.

a. **Direct Costs.** Direct Costs will be the hourly rates paid by Engineer to its employees for time directly chargeable to the Project, exclusive of the costs for fringe benefits for those employees and other payroll costs. Engineer shall ensure that its employees maintain accurate records of the time chargeable to the Project.

b. **Overhead Costs.** Overhead Costs will be all business expenses allocated by Engineer for rendering engineering services for the Project, including the fringe benefits for the employees who will be utilized on the Project. Engineer's overhead cost will be charged to District as a fixed percentage of the Direct Costs as identified in Section 3.1 a.

c. **Indirect Costs.** Indirect Costs will be all other identifiable costs of Engineer directly chargeable to the Project, including, but not limited to, reproduction of reports, plans, specifications and other documents; preparation for meetings; travel costs; computer services; supplies used in the work; and communication expenses, that are necessary for Engineer to fulfill its responsibilities for the Project.

d. **Subconsultant Costs.** Subconsultant Costs will be the costs paid by Engineer to Subconsultants for providing services as required to assist Engineer in the design and preparation of the deliverables for this Project.

e. **Fixed Fee.** The Fixed Fee shall be the profit of Engineer and shall be a fixed percentage of the direct and overhead cost for each component of the Project.

**42 Payment to Engineer.** Engineer shall be compensated in accordance with Section 31 of the Terms and Conditions of the RFP.

## **5. Duration, Schedule and Delay**

**51 Duration.** Engineer's performance of the Work shall commence on the date of the signing of each Task Authorization Form (TAF) as defined in the RFP. Engineer shall complete the Work in accordance with the agreed-upon schedule defined in each TAF (TAF Project Schedule).

**52 Delay.** Engineer shall perform its services with due diligence and agrees to use its best efforts to complete the work involved in the Project in accordance with the TAF Project Schedule. Engineer shall immediately advise District of any delay in the Project Schedule resulting from causes within or beyond its control. In the event of any such delay by causes within Engineer's control, Engineer shall promptly outline and implement appropriate actions required to overcome such delay, including, but not limited to, one or more of the following:

- Assignment of additional personnel to the Project;
- Utilization of overtime at no increase in compensation by District; and
- Change in management structure or approach.

The foregoing is not intended to relieve Engineer of responsibility for delay for which it would be responsible under this Agreement.

In the event of delay by causes beyond its control, Engineer shall promptly provide District with written notice of the delay and take all reasonable action to mitigate the effect of such delay. If the delay is beyond Engineer's control and without its fault or negligence, the time for the performance of its services may be equitably adjusted by written amendment subject to District's approval of the extent of such delay. If District determines that Engineer has suffered additional costs that could not reasonably have been avoided, District will compensate Engineer for those additional costs.

Neither of the Parties will be responsible for delays in the performance of their obligations hereunder caused by strikes, action of the elements, acts and/or decisions of any governmental agency or by third parties, other than either Parties' consultants or subconsultants, which could not reasonably have been foreseen or civil disturbances, or any other cause beyond its reasonable control. Engineer will not be responsible for any delay by District in supplying information and reviewing submittals by Engineer.

## **6. Changes and Extra Work**

District may make changes within the general scope of this Agreement and may request Engineer to perform additional services not covered by the Scope of Work defined in a TAF. If Engineer believes that any proposed change or direction given by District causes an increase or decrease in the cost and/or the time required for the performance of this Agreement, Engineer shall so notify District in writing no later than five days after the date of receiving notification of a proposed change or the changed direction. Engineer shall perform such services and will be paid for such services pursuant to a negotiated and mutually agreed change signed by the Parties to this Agreement. If Engineer determines that any work beyond the Scope of Work is necessary for

completion of the Project, Engineer shall notify District and receive approval prior to starting that work. If the Parties do not agree whether Engineer is entitled to additional compensation or the extent of such compensation for work Engineer determines is extra or changed work, Engineer shall proceed with the work and the issue of the compensation shall be reserved for later determination as provided in Section 9 of this Agreement.

**7. Personnel Assignment**

Engineer agrees to utilize the key personnel as submitted to District in its Project Plan, including its Project Manager. The Project Manager will be the primary contact for District and should have a thorough knowledge of all aspects of the Project and its status. During the term of this Agreement, no replacement of the Project Manager or any of the key personnel of Engineer's Project team or its sub-consultants may be made without the written approval of District, which approval will not be unreasonably withheld. Nothing in this Section 13 is intended to or may be construed to prevent Engineer from employing or hiring as many employees as Engineer deems necessary for the proper and efficient performance of its services.

District may request a change in the assignment of the key personnel. Engineer shall change key personnel to the satisfaction of District within 30 days following written direction to change by District.

**8. Notices**

All notices or other communications to either party by the other shall be deemed given when made in writing and delivered or mailed (not e-mailed) to such party at their respective addresses as follows:

County Sanitation Districts  
of Los Angeles County  
1955 Workman Mill Road  
Whittier, California 90601  
ATTN: Kevin Monroe

Carollo Engineers, Inc.  
707 Wilshire Blvd., Suite  
3920  
Los Angeles, CA 90017  
ATTN: Miko Aivazian

Either party may change its address or representative for such purpose by giving notice thereof to the other in the same manner.

**9. Governing Law, Dispute Resolution and Litigation**

Engineer's performance of this Agreement shall be governed and construed in accordance with the laws of the State of California. Except as provided with respect to termination in Section 6 of this Agreement, if any dispute arises between the Parties with respect to the Work, compensation for the Work, or any other matter with respect to this Agreement, the Parties shall, if both agree, submit the matter to mediation. Venue for any action relating to this Agreement shall be in the County of Los Angeles, State of California.

**10. Severability**

Should any provision of this Agreement be found or be deemed invalid, this Agreement will be construed as not containing that provision, and all other provisions, which are otherwise lawful, will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.

**11. Confidentiality**

Engineer and its Project team shall not release Project information or documentation to anyone outside District without the express written consent of District.

**12. Third Parties**

The services to be performed by Engineer are intended solely for the benefit of District. No person or entity not a signatory to the Agreement may rely on Engineer's performance of its Work under this Agreement, and no third party will obtain any right to assert a claim against Engineer by assignment of indemnity rights or otherwise accrue to that party as a result of this Agreement or Engineer's performance of the Work.

**13. Entire Agreement**

This Agreement along with the RFP and the Proposal represents the entire understanding between District and Engineer as to those matters contained herein. No prior oral or written understanding is of any force or effect with respect to those matters covered in this Agreement.

**14. Action by Chief Engineer**

Except as otherwise provided in this Agreement, the Chief Engineer and General Manager of District ("Chief Engineer") may take all actions on behalf of District in connection with any approvals or actions required of or by District under this Agreement, and Engineer may rely on any such actions by the Chief Engineer as having been approved or required by District under all applicable laws.

**15. Hold Harmless/Indemnity**

The Hold Harmless/Indemnity in Section 28 of the Terms and Conditions of the RFP is replaced with the following: "The Proposer shall save, defend, hold harmless and indemnify the Districts, the Board, and their officers, employees, agents, consultants, other independent contractors, consultants and representatives, against liability for claims against the District to the extent the claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Proposer, their subcontractors, or any employee, agent, or representative of the Proposer. In no event shall the cost to defend charged to Proposer exceed Proposer's proportionate percentage of fault."

**16. Counterparts**

This Agreement may be executed in any number of counterparts and all such counterparts shall constitute a single instrument. Delivery of an executed counterpart by facsimile or electronic transmission (in .pdf format or other electronic imaging) shall have the same force and effect as delivery of an original counterpart.

**COUNTY SANITATION DISTRICT NO. 2  
OF LOS ANGELES COUNTY**

By \_\_\_\_\_  
Chairperson, Board of Directors

ATTEST:

By \_\_\_\_\_  
Secretary to the Board

APPROVED AS TO FORM:  
LEWIS, BRISBOIS, BISGAARD & SMITH LLP

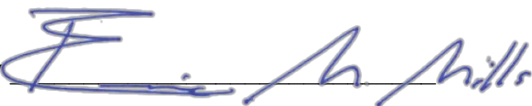
By \_\_\_\_\_  
District Counsel

**Engineer**

By  \_\_\_\_\_

Name \_\_\_\_\_ Miko Aivazian \_\_\_\_\_

Title \_\_\_\_\_ Vice President \_\_\_\_\_

By  \_\_\_\_\_

Name \_\_\_\_\_ Eric Mills \_\_\_\_\_

Title \_\_\_\_\_ Senior Vice President \_\_\_\_\_