



# ***CITY COUNCIL AGENDA REPORT***

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MEETING DATE: MAY 7, 2013

ITEM NUMBER:

**SUBJECT: PROFESSIONAL TRAFFIC ENGINEERING SERVICES CONTRACT**

**DATE: APRIL 25, 2013**

**FROM: PUBLIC SERVICES DEPARTMENT, TRANSPORTATION SERVICES DIVISION**

**PRESENTATION BY: ERNESTO MUNOZ, PUBLIC SERVICES DIRECTOR**

**FOR FURTHER INFORMATION CONTACT: RAJA SETHURAMAN, MANAGER, TRANSPORTATION SERVICES, (714) 754-5032**

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## **RECOMMENDATION:**

- 1) Approve Contract Change Order (Attachment 1) and Budget Adjustment (Attachment 2) for the extension of the Professional Services Agreement to Kabbara Engineering, 121 North Harwood Street, Orange, California, 92866, in the amount of \$99,500, for traffic engineering services.
- 2) Authorize the Chief Executive Officer to execute the Contract Change Order and the Budget Adjustment.

## **BACKGROUND:**

Two key positions in the Transportation Services Division were vacant for several months in 2012 and early part of 2013. In order to fill the staffing needs while the recruitment process was underway, the City solicited services from traffic engineering firms. In June 2012, the Transportation Services Division issued a Request for Proposals (RFP) for traffic engineering services in order to assist with the significant backlog of projects and staffing issues. The tasks requested in the scope of work included staff support at City Hall, project management services, and traffic engineering services.

The proposal submitted by Kabbara Engineering matched the City's requirements closely, and was selected to provide the required services. In addition, the cost of providing the services was lowest among the applications received. In July 2012, the City entered into a Professional Services Agreement contract with Kabbara Engineering (Attachment 3) for an amount of \$49,500.

## **ANALYSIS:**

Kabbara's staff worked well with City staff and assisted in the successful execution of several federally funded grant projects. The City received approximately 600 hours of consulting services over the past 10 months of the contract, supplementing staff resources. The amount budgeted in the Professional Services Agreement is fully expended at this time.

Staff requests approval of a Contract Change Order to extend the professional services agreement to December 31, 2013, for a not-to-exceed amount of \$50,000. While there has been a recent recruitment of an Associate Engineer in the Transportation Services Division, there is still a need for additional staff support to address the current volume of work, as recruitment for a vacant Engineering Technician III position is still underway.

**ALTERNATIVES CONSIDERED:**

One alternative would be to perform the work in-house. However, the volume of work associated with a large number of projects currently being processed exceeds staff's resources and time. A second alternative would be to re-advertise the professional services contract. However, staff does not anticipate that this will result in a lower fee.

**FISCAL REVIEW:**

Due to the lack of full time staff available, it has been necessary to retain Kabbara Engineering to assist with project work. Therefore, the attached Budget Adjustment BA #13-029 in the amount of \$99,500 (\$49,500 original contract amount and \$50,000 additional amount) is recommended to utilize funds from vacant full time salary positions for the total amount of the Kabbara contract for staffing services.

**LEGAL REVIEW:**

The City will issue a Contract Change Order of \$50,000 to the original contract amount of \$49,500 for Kabbara Engineering.

**CONCLUSION:**

The City originally entered into a professional services agreement for traffic engineering services with Kabbara Engineering for an amount of \$49,500. Staff requests an extension of the contract services for an additional amount of \$50,000, to provide services through December 31, 2013. The attached Budget Adjustment #13-029 allocates the funding for the entire contract amount of \$99,500. The attached Change Order extends the professional services agreement contract. Staff requests approval of the Budget Adjustment and the Contract Change Order.



RAJA SETHURAMAN  
Manager, Transportation Services



ERNESTO MUNOZ  
Public Services Director



BOBBY YOUNG  
Finance/IT Director

ATTACHMENTS:    1 – Contract Change Order  
                          2 – Budget Adjustment BA #13-029  
                          3 – Professional Services Agreement

DISTRIBUTION:    Chief Executive Officer  
                          Assistant Chief Executive Officer  
                          Economic & Development Director  
                          Finance/IT Director  
                          City Attorney

CITY OF COSTA MESA

PUBLIC SERVICES DEPARTMENT

CONTRACT CHANGE ORDER NO. 1 SUPPL NO. 1 REV. \_\_\_\_\_

Project: Professional Traffic Engineering Services SHEET 1 OF 1 SHEET

FEDERAL NO.(S) N/A CITY SPECIFICATION NO. PO NO. 0000008407

To KABBARA ENGINEERING Consultant

You are hereby directed to make the herein described changes or do the following described work not included in the original scope of work approved with the original contract or previously approved change orders.

NOTE: This change order is not effective until approved in accordance with Administrative Regulation No. 1.5

Description of work to be done, estimate of quantities, and prices to be paid. Segregate between additional work at contract price, agreed price and force account. Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time.

Change Requested by: Project Manager

The last percentage shown is the net accumulated increase or decrease from the original quantity in the Fee Proposal.

- 1. EXTEND CONTRACT TIME
2. ADDITIONAL SERVICES:

CONTINUATION OF TRAFFIC ENGINEERING SERVICES THROUGH DECEMBER 31, 2013

Total Cost - \$50,000

The terms and conditions of the original contract remain in effect.

Table with 3 columns: Description, Amount, %

TOTAL COST INCREASE: \$50,000.00

By reason of this order the time of completion will be adjusted as follows: December 31, 2013

Prepared by: Date: Submitted by: Date: Approval Recommended: Date: Approved: Date:

We, the undersigned consultant, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefor the prices shown above.

Accepted, Date Consultant By Title

If the Consultant did not sign acceptance of this order, his attention is directed to the requirements of the specifications as to proceeding with the ordered work and filing a written protest within the time therein specified.



**PROFESSIONAL SERVICES AGREEMENT  
FOR TRAFFIC ENGINEERING CONSULTANT SERVICES**

THIS AGREEMENT is made and entered into this 9th day of July, 2012 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and KABBARA ENGINEERING, a sole proprietorship ("Consultant").

**WITNESSETH:**

- A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide traffic engineering consultant services as more fully described in Consultant's Proposal attached as Exhibit "A"; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant's Proposal, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, consultant will be representing the City of Costa Mesa, and all of its actions, communications, or other work, during its employment, under this contract is under the direction of the department. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Clerk or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. As compensation for the provision of services outlined in Exhibit

"A" and in accordance with this agreement, Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated by reference. Consultant's total compensation shall not exceed Forty Nine Thousand Five Hundred Dollars (\$49,500.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City supervisor for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction as of the date the invoice is created. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

### **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of twelve (12) months ending on June 13, 2013, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. At the end of the term period, Consultant and City may mutually agree, in writing, to renew the contract for up to four (4) term periods of one (1) year each.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated

by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

## 5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents,

employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

## 6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Kabbara Engineering  
121 North Harwood St.  
Orange, CA 92866  
Tel: 714-744-9400

IF TO CITY:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: 714-754-5032

Fax: 714-744-9771  
Attn: Leah Kabbara

Fax: 714-754-5028  
Attn: Raja Sethuraman

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure

to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said

parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,  
A municipal corporation

Thomas R. Hately  
Chief Executive Officer of Costa Mesa

Date: 8/2/12

CONSULTANT

Leah A. Kabbara  
Signature

Date: July 5, 2012

Leah A. Kabbara, Principal Engineer  
Name and Title

33-0716651  
Social Security or Taxpayer ID Number

APPROVED AS TO FORM:

[Signature]  
City Attorney

Date: 07/31/12

APPROVED AS TO INSURANCE:

[Signature]  
Risk Management

Date: 7/20/12

APPROVED AS TO CONTENT:

Leja Sethuraman  
Project Manager

Date: 7/9/12

[Signature] 7.10.12  
Public Services Director

**EXHIBIT A**  
**CONSULTANT'S PROPOSAL**

# KABBARA ENGINEERING



Proposal

for

On-Call Traffic Engineering Services

Presented to:

**CITY OF COSTA MESA**

**Transportation Services Division**

77 Fair Drive, 4th Floor

Costa Mesa, CA 92628-1200

Attention: Mr. Raja Sethuraman,

Transportation Services Manager

# K A B B A R A E N G I N E E R I N G

CIVIL ENGINEERS • LAND SURVEYORS

June 15, 2012

City of Costa Mesa  
Transportation Services Division  
77 Fair Drive, 4<sup>th</sup> Floor  
Costa Mesa, California 92628-1200

**Attention:** Mr. Raja Sethuraman, Transportation Services Manager

**Subject:** Proposal for On-Call Traffic Engineering Services

Dear Mr. Sethuraman:

Kabbara Engineering is pleased to present our Proposal for Professional Traffic Engineering Consulting services in the City of Costa Mesa. Kabbara Engineering has successfully completed the design for the construction of over 300 local, state and federally funded street, traffic, roadway and transportation projects for public agencies in the Southern California basin, over the last 22 years.

Kabbara Engineering is also currently providing similar On-call engineering design and management services to the City of Irvine, City of Anaheim, City of Downey, City of Burbank, City of Pico Rivera, and the City of Yorba Linda, and has provided similar On-call engineering services to the City of Orange Economic Development Department and the County Sanitation District of Orange County in recent years. A sample of Kabbara Engineering's recent traffic and transportation engineering experience includes the following:

- City of Burbank, Buena Vista Street and Alameda Avenue Intersection Widening
- City of Burbank, Olive Avenue and Alameda Avenue Intersection Widening
- City of Santa Monica, 4<sup>th</sup> Street Traffic Calming Project
- City of Santa Monica, Colorado Avenue Median & Crosswalk Improvements
- City of Santa Monica, 20<sup>th</sup> Street and Cloverfield Boulevard Pedestrian Improv.
- City of Pico Rivera, Truck Impacted Intersection Improvements at Rosemead Boulevard and Slauson Avenue and at Washington Boulevard
- City of Pico Rivera, Beverly Boulevard Median Improvements
- City of Downey, Firestone Boulevard Traffic Signal Synchronization Project
- City of Downey, Downey Avenue SR2S Sidewalk System Improvements
- City of Downey, Gallatin Road & Woodruff Avenue SR2S Sidewalk System
- City of Laguna Beach, Downtown ADA Ramp Improvements
- City of Laguna Beach, Park Avenue SR2S Sidewalk Improvements
- City of Orange, Hewes Street Interim Safety Improvements & Widening
- City of Orange, Nohl Ranch Road SR2S Sidewalk Improvements

Kabbara Engineering has extensive experience in the design and management of transportation improvement projects, traffic signal synchronization projects, and project design related to neighborhood traffic issues, including intersection widening improvements, traffic signal modifications, traffic signal interconnect and synchronization, traffic calming improvements, pedestrian & crosswalk studies and improvements, federal funding compliance, management and processing and other management and plan check review services, and we are confident that our team has the expertise to serve your specific needs and the requirements of each as-needed services project. Our recent experience also includes preparation and processing of the necessary encroachment permits as required by Caltrans for work within their jurisdiction, and right-of-way, environmental documentation, and state and federal funding authorizations, reports and invoices, as required by the federal government and administering agencies, including Caltrans.

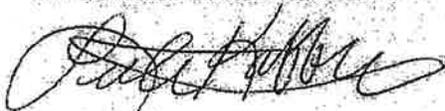
Our professional engineering staff assigned to this on-call services project includes Mr. Grant Anderson, P.E., T.E., Senior Traffic Engineer, Mr. James Anderson, P.E., T.E., Senior Traffic Engineer, and Mr. Bill Kabbara, P.E., P.L.S., Principal/Project Engineer/Land Surveyor. Ms. Leah Kabbara, P.E., will be assigned as Principal-in-charge of your projects, and be the primary contact for the City. Our senior level staff each have over 25 years of traffic and civil engineering design and management experience in the Southern California Area. Brief Resumes of our senior staff are attached herewith for your review.

The Kabbara Engineering team is committed to providing the City of Costa Mesa, with the highest level of service available, by highly qualified personnel in the specialized field of traffic engineering.

Kabbara Engineering is currently in compliance with the City of Costa Mesa's Professional Services Agreement requirements, and a copy of our certificate of insurance is on file with the City.

Thank you for this opportunity to be of service. We look forward to working with you and your staff on upcoming projects. If you have any questions please contact me at (714) 744-9400, extension 22, or email at [leah@kabbara.net](mailto:leah@kabbara.net).

Sincerely,  
**KABBARA ENGINEERING**



Leah Kabbara, PE  
PRINCIPAL ENGINEER

**TABLE OF CONTENTS**

<b>1.</b>	<b>STATEMENT OF QUALIFICATIONS</b>	<b>PAGES 4-7</b>
	EXECUTIVE SUMMARY	PAGE 4
	YEARS IN BUSINESS	PAGE 4
	CORPORATE DOCUMENTATION	PAGE 4
	PROJECT MANAGEMENT	PAGE 4
	QUALITY ASSURANCE	PAGE 5
	SPECIALIZED KNOWLEDGE & EQUIPMENT	PAGE 5
	ON-TIME DELIVERY METHODOLOGY	PAGES 6
	INSURANCE	PAGE 7
	FINANCIAL STABILITY	PAGE 7
	CLIENT REFERENCES	PAGE 7
<b>2.</b>	<b>PROJECT TEAM RESUMES</b>	<b>PAGE 8</b>
<b>3.</b>	<b>SCHEDULE OF HOURLY RATES (CONFIDENTIAL)</b>	<b>PAGE 10</b>
<b>4.</b>	<b>STATEMENT OF COMPLIANCE</b>	<b>PAGE 11</b>

## 1. STATEMENT OF QUALIFICATIONS

### Executive Summary

Kabbara Engineering is a full service Civil & Traffic Engineering and Land Surveying company with extensive experience with the design of federal, state and locally funded street, traffic, pavement, drainage, street lighting/electrical, sewer, water, recycled water, storm drain, and institutional projects, such as libraries, courthouses, senior housing, sports park & park, gymnasium, civic centers and other municipal projects.

**Kabbara Engineering is currently providing similar On-call Civil Engineering services to the City of Irvine, City of Burbank, City of Yorba Linda, City of Anaheim, City of Pico Rivera, and the Pico Water District, and has provided similar On-call engineering services to the City of Orange Community Development Department, County of Orange, and the County Sanitation District of Orange County in recent years.**

We are a local firm with offices located in Old Towne Orange at 121 North Harwood Street, Orange, California, 92866-1626, phone (714) 744-9400, and fax (714) 744-9771. For more information please see our web site at [www.kabbara.net](http://www.kabbara.net).

### Years in Business

Kabbara Engineering is pleased to be celebrating our 22nd year anniversary in business this new year, and has been dedicated to serving the public works community in Southern California since its founding in 1990.

### Corporate Documentation

Kabbara Engineering is a sole proprietorship, dedicated to technical excellence and high quality services in the design and construction of public works projects.

### Project Management

At Kabbara Engineering, the key to an effective management approach is the organization of a highly qualified team of professional engineers, land surveyors and technical support staff. A team approach is applied to every project undertaken, with a Principal Engineer in responsible charge of the project, directing, managing, and acting as the central design figure in the work. Ms. Leah Kabbara will be the Project Manager and Principal-in-charge of your projects and will be directly responsible for all aspects of the project. Ms. Kabbara has over 27 years of experience in the design and management of public works projects and has completed numerous municipal street, traffic, sewer, water, storm drain, streetscape and other improvement project plans, specifications, estimates within the Southern California area. Mr. Bill Kabbara, P.E., P.L.S., will be the Principal Project Engineer in charge of your projects and has over 28 years of experience in the design and management of various municipal projects within the Southern California basin. Ms. Leah Kabbara, P.E., Principal Engineer is the contact for this project and can be reached directly at phone (714) 744-9400, Extension 22, fax (714) 744-9771, or email: [leah@kabbara.net](mailto:leah@kabbara.net). Mr. Bill Kabbara, P.E., P.L.S., Principal Engineer can be reached directly at phone (714) 744-9400, Extension 23, fax (714) 744-9771, or email: [bill@kabbara.net](mailto:bill@kabbara.net).

### **Quality Assurance**

As evidenced in our Experience Profile, and by the quality of our references, Kabbara Engineering has worked almost exclusively for public agencies, and therefore understands the importance of producing a quality product that proceeds on a predictable schedule, is designed within budget, and experiences minimum construction change orders. Our Quality Assurance Plan always includes formal reviews for value engineering and constructibility by a Principal Engineer of our firm and by an external designated construction manager. Also included is a review of all Opinions of Probable Construction Costs by an external designated construction estimator, and comparison of actual recent bid costs on similar projects in the area. Consequently, our project management procedures include safeguards to ensure that the City of Costa Mesa will benefit from a project that responds to all design issues, is completed on time, and receives construction bids that are close to the Engineer's Estimate.

### **Team Processes & Resources**

The Kabbara Engineering Team has committed to their availability and their personal involvement for the duration of this project. Additional staff will be available to support our core team as required for the successful completion of each project. The continuity of our team members will expedite project delivery and implementation.

### **Specialized Knowledge & Equipment**

The Kabbara Engineering Team has the experience in all aspects of the proposed street, drainage and building projects rehabilitation design, engineering and construction projects. Our knowledge of local conditions, regulations and excellent working relationships with local agencies and communities will enhance the implementation and successful completion of this project. Each project is designed using AutoCAD workstations. All field survey crews are outfitted with electronic equipment, including G.P.S. equipment and data collectors for direct interface with the office CADD systems.

CADD is used for all projects' design and drafting. These two tasks are accomplished concurrently, which greatly improves the speed and accuracy of drawing production, resulting in a lower production costs which are passed on to our clients.

CADD offers many advantages which include modifications to designs that can be accomplished with greater ease. Uniform presentation and ease of as-constructed plans are some additional advantages.

Kabbara Engineering utilizes the latest in hydrology software and computational methods in watershed modeling. We are very familiar with all of the Advanced Engineering Software (A.E.S.) programs, the Los Angeles Watershed, Rational Method Program (for less than 100 acres), the Modified Rational Method F0601 Program (for areas above 100 acres), and the Unit Hydrograph HEC 1 Flood Hydrograph Package developed by the U.S. Army Corps of Engineers.

In hydraulic analysis and design, we use the Water Pressure Gradient Program (WSPG) developed by the Los Angeles County and the HEC 2 (Water Surface Profiles) and HEC 6 (Scour and Deposition in Rivers and Reservoirs) programs.

Communication between the client and team members is enhanced by digital communication, via the internet, of all related project criteria, schedules, status reports, work products and deliverables.

### **On-time Delivery Methodology**

Kabbara Engineering is committed to meeting our client's project schedules. Our excellent record of project schedule and cost compliance is based on the following three-point plan:

#### ***Project Planning***

We feel that project planning is a vital first step to reach our goal "project completion on-time". In planning a project, we break down the project into the tasks. Utilizing the Critical Path Method we rank each task, determine the resource requirements to accomplish each task, review any time constraint and allocate the necessary resources. Good planning is only the first step to accomplish our goal of ensuring schedule and budget compliance.

#### ***Project Tracking***

We are constantly striving to meet all of the project time constrain through constant monitoring and tracking. To help us with this task, we use computers with the latest in project scheduling and tracking software to adhere to the project schedule. These tools allow us to manage our resources efficiently and adjust our planned course of action to meet the project schedule.

#### ***Communication***

Clear communication between our design team our client is of the vital importance for all projects. We strive to keep our clients informed of the project schedule and design progress through our "STATUS REPORTS" which are provided in hard copy and will regularly be available and updated for the City's Project Manager on our secured access web site. These reports will identify any potential problems early on and help secure solutions. Status reports are prepared on a monthly or bi-weekly time frame depending on the client's needs and the project requirements.

### **Insurance Coverage**

Kabbara Engineering maintains professional liability, comprehensive general liability, vehicular, and workers compensation insurance in accordance with the latest requirements of the City of Costa Mesa and the Labor code. Our certificate of insurance is currently on file with the City and is available upon request for this project.

**Financial Stability**

Kabbara Engineering is in excellent financial health, and has never been the subject of any litigation, bankruptcies, mergers, or closures, and is not subject to any known conditions that may impact our ability to do business in or with the City of Costa Mesa.

**Client References**

Kabbara Engineering's excellent Client References include the following:

- |  |   |
|--|---|
| <p>1. <b>Mr. Art Cervantes, P.E.</b><br/>           Director of Public Works<br/>           City of Pico Rivera<br/>           6615 Parsons Boulevard<br/>           Pico Rivera, CA 90660<br/>           (562) 801-4225<br/> <a href="mailto:acervantes@pico-rivera.org">acervantes@pico-rivera.org</a></p> | <p>2. <b>Mr. Ernesto Munoz, P.E.</b><br/>           Director of Public Works<br/>           City of Costa Mesa<br/>           77 Fair Drive, 4<sup>th</sup> Floor<br/>           Costa Mesa, CA 92628<br/>           (714) 754-5173<br/> <a href="mailto:emunoz@ci.costa-mesa.ca.us">emunoz@ci.costa-mesa.ca.us</a></p> |
| <p>3. <b>Mr. Ben Parker, P.E.</b><br/>           Senior Civil Engineer<br/>           City of San Clemente<br/>           910 Calle Negocio, Suite 100<br/>           San Clemente, CA 92673<br/>           (949) 361-6138<br/> <a href="mailto:ParkerB@san-clemente.org">ParkerB@san-clemente.org</a></p>   | <p>4. <b>Mr. Bill Zein, P.E.</b><br/>           Principal Engineer<br/>           City of Santa Monica<br/>           1437 4<sup>th</sup> Street, Suite 300<br/>           Santa Monica, CA 90401<br/>           (310) 458-8726<br/> <a href="mailto:Bill.Zein@SMGOV.NET">Bill.Zein@SMGOV.NET</a></p>                   |
| <p>5. <b>Mr. Omar Moheize, P.E.</b><br/>           Principal Engineer<br/>           City of Burbank<br/>           150 North Third Street<br/>           Burbank, CA 91510<br/>           (818) 238-3943<br/> <a href="mailto:omoheize@ci.burbank.ca.us">omoheize@ci.burbank.ca.us</a></p>                  | <p>6. <b>Mr. Ed Norris, P.E.</b><br/>           Deputy Director of Public Works<br/>           City of Downey<br/>           11111 Brookshire Avenue<br/>           Downey, CA 90241-7016<br/>           (562) 904-7109<br/> <a href="mailto:enorris@downeyca.org">enorris@downeyca.org</a></p>                         |
| <p>7. <b>Mr. Steve May, P.E.</b><br/>           City Engineer<br/>           City of Laguna Beach<br/>           505 Forest Avenue<br/>           Laguna Beach, CA 92866<br/>           (949) 497-0351<br/> <a href="mailto:smay@lagunabeachcity.net">smay@lagunabeachcity.net</a></p>                       | <p>8. <b>Mr. Nicholas Renn, P.E.</b><br/>           Deputy Director of Public Works<br/>           City of Laguna Niguel<br/>           27791 La Paz Road<br/>           Laguna Niguel, CA 92677<br/>           (949) 362-4341<br/> <a href="mailto:nrenn@ci.laguna-niguel.ca.us">nrenn@ci.laguna-niguel.ca.us</a></p>  |

## 2. PROJECT TEAM RESUMES

Ms. Leah Kabbara will be the Project Manager and Principal-in-charge of your projects and will be directly responsible for all aspects of the project. Mr. Bill Kabbara, P.E., P.L.S., will be the Principal Project Engineer in charge of your projects and has over twenty-eight years of experience in the design and management of various municipal transportation and traffic engineering projects within the Southern California basin.

Our project team has been selected to match all the service areas requested by the City of Costa Mesa for this On-Call Traffic Engineering Services contract. The brief resumes of our project team include the following:

### Leah Kabbara, P.E., Principal Engineer/Project Manager, Kabbara Engineering

Bachelor of Science, Civil Engineering - 1983, University of California, Irvine  
Civil Engineer - California - RCE 41879

Ms. Kabbara, Project Manager for Kabbara Engineering, has more than twenty-seven years experience in the design of public works, redevelopment, sewer, water and drainage projects. As Project Manager, Ms. Kabbara is responsible for the quality assurance reviews, scheduling, manpower, and for maintaining a high level of communication with clients and staff. Ms. Kabbara has been responsible for the design and management of many street, transportation, traffic, sewer, water, storm drain and institutional projects, including the design of the following completed similar projects: *City of El Segundo*, Downtown Specific Plan Improvement Project; *City of Orange*, Chapman Avenue AHRP Project, Sycamore Avenue CDBG Rehabilitation Project; *City of Downey*, S.S. #508 Citywide Street Rehabilitation Project; *City of Laguna Niguel*, Crown Valley, Golden Lantern & Camino del Avion AHRP Project; *City of Burbank*, Olive Avenue and Alameda Avenue, Intersection Widening Improvements; *City of Pico Rivera*, Mines Avenue Bike Lane and Pavement Rehabilitation Project; *City of Santa Monica*, 4<sup>th</sup> Street Traffic Plan & Colorado Avenue Median Improvements; *City of Costa Mesa*, Rehabilitation Improvements for Several Arterial & Residential Streets & One Alley; *City of Laguna Beach*, Park Avenue SR2S Sidewalk Improvements. Ms. Kabbara also has extensive experience in the preparation, processing and management of federal and state funding applications, documentation, reporting, and invoicing.

### Bill Kabbara, P.E., L.S., Principal Engineer/Project Engineer/Land Surveyor, Kabbara Engineering

Bachelor of Science, Civil Engineering - 1982, University of California, Irvine  
Bachelor of Science, Biological Sciences - 1982, University of California, Irvine  
Master of Science, Civil Engineering - 1985, California State University, Long Beach  
Civil Engineer - California - RCE 40812  
Professional Land Surveyor - California - LS 6624

Mr. Kabbara has over twenty-eight years of professional engineering experience, with a specialization in public works projects. Mr. Kabbara has managed and prepared numerous plans, specifications and estimates, and has conducted and reviewed numerous special evaluations and studies for many federally, state and locally funded street, transportation, traffic, sewer, water, storm drain, flood control, rehabilitation projects. As Project Engineer, Mr. Kabbara will act as the central design figure in the work. Mr. Kabbara was directly responsible for the design of the following completed similar projects: *City of Orange*, Glassell St. CDBG,

Cambridge Ave. AHRP & Palm Ave. CDBG Rehabilitation Projects; *City of Santa Monica*, Downtown Transit Mall Improvements & 4<sup>th</sup> Street Rehabilitation Project; *City of Downey*, S.S. #510, 526 & 527 Street Rehabilitation Projects & Paramount Rd. & Gallatin Rd. AHRP Projects; *City of Laguna Niguel*, Hidden Crest Drainage Improvements; *City of Burbank*, Magnolia Park Streetscape Phase 5; *City of Pico Rivera*, Rosemead Blvd. AHRP Project; *City of La Habra*, Lambert Rd. & Hacienda Blvd. AHRP Project, & Citywide Street & Water Rehabilitation Projects 1-R-01 & 6-R-02; *City of Costa Mesa*, 2005-2006 Street Rehabilitation Improvements for Wallace, Buoy, Kenwood, Congress & Alley 123; *City of San Clemente*, 248 Palizada & 221-225 Marquita Storm Drain Projects. As a Professional Land Surveyor, Mr. Kabbara also has extensive experience in the preparation, processing, plan check, and review of mapping, legal descriptions and exhibits, as required for any right-of-way acquisition, or right-of-entry documentation, as required for this project.

**Grant Anderson, P.E., T.E., Senior Traffic Engineer, Kabbara Engineering**

Bachelor of Science, Civil Engineering – 1978, University of Southern California

Civil Engineer – California – RCE 34285

Traffic Engineer – California – RTE 1193

Mr. Anderson has over 30 years of experience in municipal traffic engineering services. He has been responsible for traffic studies of intersections and highway segments, traffic signals, preparing reports and recommendations related to traffic/transportation problems, traffic operations, and freeway and road development. Mr. Anderson currently serves as Senior Traffic Engineer at Kabbara Engineering. During his past career as Chief Traffic Engineer for the County of Orange, Mr. Anderson supervised traffic engineers and technicians in traffic operations, traffic engineering, and short-range transportation planning activities. He has represented Traffic Engineering on various committees and commissions. He has provided his technical expertise in consulting with a variety of private and public agencies. Mr. Anderson has most recently completed the design of traffic signal & striping modifications for the intersection of Bouquet Canyon Road and Espuella Drive in Santa Clarita; and the traffic control & striping PS&E for the Lambert Road and Hacienda Boulevard Rehabilitation project for the La Habra, and South Coast Drive & Hyland Avenue Rehabilitation project for the Costa Mesa. At the County, Mr. Anderson's duties most recently included: Managing the activities of approximately 23 employees in 5 Units (Traffic Investigations, Signal Operations, Road Finance, Project Funding, and Project Administration) all within the Traffic Engineering-Road Programs Section of the OC Road Division. As the County Traffic Engineer, Mr. Anderson set policies, goals and priorities and managed staff to ensure that the highways within the unincorporated County of Orange were safe to travel under normal operating conditions. Mr. Anderson acted as Chairman of the Orange County Traffic Committee as it considered issues of traffic safety within unincorporated County roadways. He supervised and provided direction to staff responsible for the design, operation and maintenance of over 200 traffic signal systems within the unincorporated County as well as within contract cities. He also managed staff that investigated traffic safety concerns, performed studies to address identified deficiencies and prepared improvement plans to mitigate or correct deficiencies. Mr. Anderson provided guidance and training in the review of encroachment permits, project reports, traffic control plans, signing and striping plans and street improvement plans prepared by a Developer's engineer and also various governmental agencies. As the County's Road Program Manager, he oversaw staff responsible for initial planning activities to develop road improvement projects and prepare the County's Capital Improvement Program. Mr. Anderson coordinated with various County departments and governmental agencies, including cities, OCTA and Caltrans, as well as private consulting firms to identify possible transportation projects for design and inclusion within the County's multi-year transportation funding program. Mr. Anderson

KABBARA ENGINEERING

PROPOSAL FOR ON-CALL TRAFFIC ENGINEERING SERVICES

**EXHIBIT B**  
**FEE SCHEDULE**

supervised staff responsible for identifying project funding requirements and securing grant funds for the planning, design and construction of road and bridge projects within unincorporated Orange County. In this position he also prepared the annual Road budget to ensure adequate funding was available for transportation-related projects.

**James J. Anderson, P.E., T.E., Senior Traffic Engineer, Kabbara Engineering**

Bachelor of Science, Civil Engineering – 1969, California State University, San Diego

Professional Civil Engineer – California – RCE 22863

Professional Traffic Engineer – California – RTE 127

Mr. Anderson has over 30 years experience in the preparation of plans for many traffic engineering projects. He has also been responsible for the preparation of numerous studies and reports, covering a wide range of traffic engineering activities such as computer traffic control systems, channelization and signing studies, speed limit studies, traffic operation studies and impact studies of highway improvements. Mr. Anderson excels in the preparation of plans for traffic signal installation, including coordination of signals by interconnection, channelization design and work area traffic control. Formerly, Mr. Anderson was the head of the Traffic Engineering division for the City of Costa Mesa. While with the City, he was involved in a variety of transportation projects including alternative routes for the SR-55 Freeway extension and the impact of the South Coast Plaza rezoning. Prior to Costa Mesa he held the position of Design Engineer for VTN Consulting Engineers and the County of Los Angeles. Mr. Anderson has directly designed or supervised the preparation of over 400 traffic signal/stripping, street lighting and work area traffic control plans, including construction management in the role of resident engineer and/or inspector. He has considerable knowledge and experience with computerized traffic flow simulation, including the use of SYNCHRO computer models. He routinely utilizes these models for both optimization of signal timing and as an analytical tool.

**3. SCHEDULE OF HOURLY FEES (CONFIDENTIAL)**

**KABBARA ENGINEERING  
Confidential Schedule of Hourly Rates  
Effective January 1, 2012 through December 31, 2012**

**CLASSIFICATION**

**HOURLY RATES**

**ENGINEERING**

Principal Engineer/Project Manager	\$ 165 per hour
Project Engineer	\$ 150 per hour
Senior Traffic Engineer	\$ 95 per hour
Quality Engineer	\$ 120 per hour
Designer/ Civil Engineer	\$ 90 per hour
Junior Engineer	\$ 80 per hour
CADD Operator	\$ 75 per hour

**SURVEYING**

Licensed Land Surveyor	\$ 160 per hour
Survey Technician	\$ 95 per hour

Two-Man Field Party \$ 210 per hour  
Three-Man Field Party \$ 300 per hour

**CLERICAL**

Clerical \$ 65 per hour

**MISCELLANEOUS CHARGES:** Out-of-pocket expenses (blueprints, reproductions, utility records, agency fees, printing) will be billed at cost plus 15%. Mileage will be billed at \$0.58 per mile.

**SUBCONTRACTS:** A 10% fee for administration, coordination, and handling will be added to subcontracted services such as geotechnical, structural, or electrical engineering specialists services.

**4. STATEMENT OF COMPLIANCE**

Kabbara Engineering is currently under contract with the City of Costa Mesa, and in compliance with the City's Professional Services Agreement requirements, and is not subject to any known conditions which would impact our ability to perform the scope of work anticipated for this On-call Traffic Engineering Services contract.

**EXHIBIT C**  
**CITY COUNCIL POLICY 100-5**

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

**POLICY**

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
  - 1. The dangers of drug abuse in the workplace;
  - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
  - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
  - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
  - 1. Abide by the terms of the statement; and
  - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
  - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
    - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
    - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
    - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
  3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

**I. Additional Insured by Contract, Agreement or Permit**

Under **SECTION II – LIABILITY, C. Who Is An Insured**, Paragraph 4. is added as follows:

a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or "personal and advertising injury";

(2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

(3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

(4) To any:

(a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

(b) Managers or lessors of premises if:

(i) The occurrence takes place after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

(5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional

services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.
- d. All other insuring agreements, exclusions, and conditions of the policy apply.

**II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory**

The following is added to **SECTION III – COMMON POLICY CONDITIONS:**

**M. Other Insurance**

**1. Additional Insureds**

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When **b.(2)** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.(3)** below.

**b. Excess Insurance**

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

#### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### III. Aggregate Limit of Insurance (Per Project)

a. For purposes of the coverage provided by this endorsement, D. Liability and Medical Expenses Limits of Insurance under Section II – Liability is amended by adding the following:

The General Aggregate Limit under D. Liability and Medical Expenses Limits of Insurance applies separately to each of "your projects" or each location listed in the Declarations.

b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

#### **IV. Blanket Waiver of Subrogation**

**Paragraph K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III – Common Policy Conditions** is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".