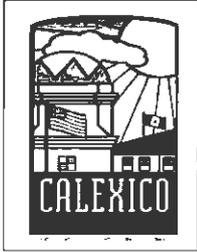


AGENDA
ITEM

13



AGENDA STAFF REPORT

DATE: October 7, 2020

TO: Mayor and City Council

APPROVED BY: Miguel Figueroa, City Manager 

PREPARED BY: Diego Favila, Fire Chief 

SUBJECT: Authorize City Manager to Sign a Revised and Restated Professional Services Agreement with Landmark Consultants, Inc., to Provide Additional Construction Materials Testing and Special Inspection Services for the New Calexico Fire Station Headquarters for an additional sum of \$53,154.00.

=====

Recommendation:

Authorize City Manager to sign a Revised and Restated Professional Services Agreement with Landmark Consultants, Inc., to provide additional services, which include construction materials testing and special inspection services for the new Calexico Fire Station Headquarters for an additional sum of \$53,154.00.

Authorize the City Attorney to approve minor modifications to the Revised and Restated Professional Services Agreement, if needed.

Background:

On December 5, 2018, the City of Calexico entered into an Agreement for Professional Services with Ten Over Studio for architectural services, permitting, bid assistance and construction administration for the new Calexico Fire Station Headquarters. The original scope of work included geotechnical investigation and report.

On March 20, 2019, the City Council approved Amendment No. 1 to the agreement with Ten Over Studio resulting in a reduction in the scope of work and a \$15,000 reduction to the agreement for Ten Over Studio. This reduction in the scope of work and fee removed the geotechnical services from the Ten Over Studio agreement.

AGENDA ITEM 13

The City received two proposals from geotechnical engineers and selected Landmark Consultants, Inc., for the new Calexico Fire Station Headquarters project.

Thereafter, on March 25, 2019, the City of Calexico entered into an Agreement for Geotechnical and Engineering Services with Landmark Consultants, Inc. (Agreement dated February 20, 2019). The Landmark scope of work included geotechnical field exploration, laboratory testing and the preparation of the geotechnical engineering analysis and report for \$15,500.00.

Discussion & Analysis:

The Calexico Fire Station Headquarters project started construction on August 3, 2020. The City is in need of additional services. More specifically, construction materials testing and special inspection services are necessary for the project and are required by the California Building Code for essential facilities such as the new Calexico Fire Station Headquarters project.

Landmark Consultants is familiar with the geotechnical and design of Calexico Fire Station Headquarters project because it provided the geotechnical study for the project. Additionally, Landmark has the qualifications to provide and complete the needed services for shop and field inspections, field testing materials, collection of field materials for laboratory testing and the preparation of reports needed to satisfy the special inspection and testing requirements are identified on the project documents and required by the California Building Codes and the Essential Services Act.

At this time the City of Calexico and Landmark desire to enter into a Revised and Restated Agreement for these additional services in the amount of \$53,154.00 because the Consultant is familiar with the geotechnical and design of the new Calexico Fire Station HQ Station.

Landmark's laboratory is Caltrans, AASHTO, AMRL and CCRL certified. Landmark is registered with the Department of Industrial Relations with DIR #1000004057.

Fiscal Impact:

Measure H Bond Proceeds - \$53,154.00.

Coordinated With:

Fire Department
City Attorney

Attachment(s):

1. City of Calexico Revised and Restated Professional Services Agreement

2. Landmark Cost Proposal dated May 27, 2020
3. Agreement dated February 20, 2019 for Geotechnical and Engineering Services with Landmark Consultants, Inc. (original agreement)

**EXHIBIT "A"
SCOPE OF SERVICES/COMPENSATION**



780 N. 4th Street
El Centro, CA 92243
1760, 370 3000
1760, 337 8900 fax

77 348 Wilk-at Drive
Palm Desert, CA 92211
1760, 360 0655
1760, 360 0521 fax

May 27, 2020

Mr. Diego Favila
Calexico Fire Chief
415 E. Fifth Street
Calexico, CA 92231

**Cost Proposal for Construction Materials Testing
Calexico Fire HQ Station
415 E. Fifth Street
Calexico, California
LCI Proposal No. L20-081T**

Dear Mr. Favila:

We are providing a unit rate proposal for construction materials testing and inspection services associated with the proposed new Calexico Fire HQ Station located at 415 E. Fifth Street in Calexico, California.

Field Testing (Prevailing Wage Rates)

Compaction Testing – 100 hrs @ \$98/hr	\$9,800
Asphaltic Concrete Testing – 8 hrs @ \$98/hr	\$784
Concrete Testing/Retrievals – 120 hrs @ \$98/hr	\$11,760
Foundation Rebar Inspection (Engineer) – 8 hrs @ \$150/hr	\$1,200
Welding/Bolting/Masonry/Epoxy Inspection – 120 hrs @ \$98/hr	\$11,760
Trip Charge – 80 trips @ \$35/trip	\$2,800

Laboratory Testing

Maximum Density (Native/Import) – 3 @ \$250 ea.	\$750
Aggregate Base Conformance Testing – 1 @ \$950 ea.	\$950
Asphalt HVEFM Density – 1 @ \$200 ea.	\$200
Asphalt Ignition/Gradation – 1 @ \$350 ea.	\$350
Concrete Compressive Strength – 20 sets @ \$150 set	\$3,000
Grout/Mortar Compressive Strength – 10 sets @ \$180 set	\$1,800

Engineering Oversight/Reports

\$8,000

Total: \$53,154

A 2-hour minimum charge shall apply to all field testing services and shall accrue in two hour increments. Overtime hours (after 3 pm weekdays, over 8 hours per day, and anytime Saturdays) shall be invoiced at 1.5 times the normal rate and double time hours (Sundays and over 12 hours per day) shall be invoiced at 2.0 times normal rates.

Typically, we cannot accurately forecast the progress of the job and the number of trips required for the testing laboratory to perform the tests necessary to conform to project specifications. The fee estimate provided herein may vary (increase or decrease) depending on the contractor's control of the work. The unit rates provided herein shall be used for the work provided by our firm. ***This is a unit rate proposal.***

The opportunity to assist in providing construction materials testing and inspection services for this project is appreciated. Our laboratory is Caltrans, AASHTO, AMRI, and CCRI certified. Landmarks is registered with the Department of Industrial Relations with DIR #1000004057 and expiration date of June 30, 2022.

Sincerely Yours,
Landmark Consultants, Inc.

A handwritten signature in black ink, appearing to read "Randy O. Lyon".

Randy O. Lyon
President

**CITY OF CALEXICO REVISED AND RESTATED
PROFESSIONAL SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Revised and Restated Agreement ("Agreement") is made and entered into this _____ day of October, 2020, by and between the City of Calexico, a municipal corporation, organized under the laws of the State of California, with its principal place of business at 608 Heber Avenue, Calexico, California 92231 ("City") and Landmark Consultants, Inc. with its principal place of business at 780 N. 4th Street El Centro, CA 92243 ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

WHEREAS, The City and Consultant entered into an Agreement for Geotechnical Engineering Services dated February 20, 2019 ("Original Agreement"), under which the Consultant provided a Geotechnical Study for the design and construction of the new Calexico Fire Station HQ Station.

WHEREAS, Consultant desires to perform and assume responsibility for construction materials testing and inspection services associated with the construction of the new Calexico Fire Station HQ Station (the "Project") as set forth in this Agreement.

WHEREAS, The Parties desire to enter into this Revised and Restated Agreement for these additional services because the Consultant is familiar with the geotechnical and design of the new Calexico Fire Station HQ Station.

WHEREAS, This Agreement shall supersede all prior agreements, including the Original Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional materials testing and inspection services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from October 1, 2020 to the final acceptance by the City of the new Calexico Fire Station HQ Station, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Consultant.

3.2.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services on behalf of Consultant shall not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services in a prompt and timely manner. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: [***INSERT NAME AND TITLE***].

3.2.5 City's Representative. The City hereby designates [***INSERT NAME AND TITLE***], or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Services or change the total compensation due to Consultant under this Agreement. The City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Services or change the Consultant's total compensation subject to the provisions contained in Section 3.3 of this Agreement. Consultant shall not accept direction or orders from any person other than the City Manager, City's Representative or his/her designee.

3.2.6 Consultant's Representative. Consultant hereby designates [***INSERT NAME AND TITLE***], or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Period of Performance. Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" attached hereto, or which may be separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage.

3.2.10 Laws and Regulations; Employee/Labor Certification. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause.

3.2.10.1 Employment Eligibility; Consultant. Consultant certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Consultant certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.3 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.4 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.2.11 Insurance

3.2.11.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

3.2.11.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, or the exact equivalent, with limits of not less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured

against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than \$1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

(D) Professional Liability (Errors & Omissions): Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than \$1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

3.2.11.3 Insurance Endorsements. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

(A) Commercial General Liability: (1) Additional Insured: The City, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the terms or purposes of this Agreement. For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability. (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(C) Professional Liability (Errors & Omissions): (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium. (2) Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

(D) Workers' Compensation: (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium. (2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the City, its officials, officers, employees, agents, and volunteers.

3.2.11.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.11.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.2.11.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City and shall protect the City, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.11.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates on forms approved by the City, together with all endorsements affecting each policy. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.11.8 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to transact business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.11.9 Enforcement of Agreement Provisions (non estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to

inform Consultant of non-compliance with any requirement imposes no additional obligation on the City nor does it waive any rights hereunder.

3.2.11.10 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance.

3.2.11.11 Additional Insurance Provisions

(A) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(B) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(C) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(D) Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(E) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

(F) Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.11.12 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the City, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. All policies of Commercial General Liability insurance provided by Consultant's subconsultants performing work relating to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers as additional insureds using endorsement form ISO CG 20 38 04 13 or an endorsement providing equivalent coverage. Consultant shall not allow any subconsultant to

commence work on any subcontract relating to this Agreement until it has received satisfactory evidence of subconsultant's compliance with all insurance requirements under this Agreement, to the extent applicable. The Consultant shall provide satisfactory evidence of compliance with this section upon request of the City.

3.2.12 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the City's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant must additionally comply with the lawful requirements of the City, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. City may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in this Section, or any other relevant water quality law, regulation, or policy.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed **Fifty-Three Thousand One Hundred Fifty-Four Dollars and Zero Cents (\$53,154.00)** without written approval of the City Council or City Manager as applicable. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to City a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. City shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the City disputes any of Consultant's fees, the City shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City, or included in Exhibit "A" of this Agreement.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the City, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4.2 Registration/DIR Compliance. If the Services are being performed on a public works project of over \$25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over \$15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against Consultant or any subconsultant.

3.4.3 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5 Accounting Records.

3.5.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of

all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.6 General Provisions.

3.6.1 Termination of Agreement.

3.6.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.6.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.6.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.6.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: Landmark Consultants, Inc.
780 N. 4th Street
El Centro, CA 92243
ATTN: Randy Lyon, President

City: City of Calexico
608 Heber Avenue
Calexico, CA 92231
ATTN: Diego Favila, Fire Chief

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.3 Ownership of Materials and Confidentiality.

3.6.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed

in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.6.3.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.6.3.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.6.3.4 Indemnification. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.6.3.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.6.3.6 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the Release Notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.6.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.5 Indemnification.

3.6.5.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

3.6.5.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is

defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.6.6 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.6.7 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Imperial County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

3.6.8 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6.9 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.10 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.6.11 Assignment; Subcontracting. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.6.12 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are

for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.6.13 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.14 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.6.15 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.16 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.17 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.18 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.19 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.20 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE TO
PROFESSIONAL SERVICES AGREEMENT BY AND
BETWEEN THE CITY OF CALEXICO AND LANDMARK
CONSULTANTS**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF CALEXICO

LANDMARK CONSULTANTS, INC.

By: _____

Miguel Figueroa
City Manager

By: _____
Randy Lyon
President

Attest:

City Clerk

Approved as to Form:

Best Best & Krieger LLP
City Attorney



780 N. 4th Street
El Centro, CA 92243
(760) 370-3000
(760) 337-8900 fax

77-948 Wildcat Drive
Palm Desert, CA 92211
(760) 360-0665
(760) 360-0521 fax

February 20, 2019

Mr. David Dale, PE
City Manager
City of Calexico
608 Heber Avenue
Calexico, CA 92231

**Proposal for Geotechnical Study
Calexico Fire Station Facility
415 E. Fourth Street
Calexico, California
LCI Proposal No. L19-038G**

Dear Mr. Dale:

Landmark Consultants, Inc. is pleased to provide this proposal for geotechnical engineering services for the design and construction of the new Calexico Fire Station facility located at 415 E. Fourth Street in Calexico, California. The project site is currently occupied by the existing fire station which will be demolished and a new station constructed.

The geotechnical investigation for the project will conform to California Geologic Survey (CGC) Note 48 Checklist of the Review of Engineering Geology and Seismology Reports for California Public Schools, Hospitals and Essential Services Buildings, which requires one boring per 5,000 s.f. of building area and a minimum of 2 borings per building. Based on the size of the proposed fire station building, a total of two (2) borings/CPT soundings are required to be conducted within the building area. As requested by the client, a total of three (3) CPT soundings will be conducted at the project site.

SCOPE OF SERVICES

The scope of work will generally consist field exploration and laboratory testing to determine engineering parameters of the subsurface soil and preparation of a geotechnical report. Dig Alert will be notified to delineate locations of existing utilities at the proposed boring locations.

Field Exploration

The field exploration for the proposed work scope will generally consist of conducting three (3) electronic Cone Penetration Test (CPT) soundings to a depth of 25 feet (2 soundings) and 50 feet (one sounding) below the existing ground surface within the proposed building site to assess subsurface conditions of the underlying soils and for liquefaction analysis.

CPT soundings provide a continuous profile of the soil stratigraphy with readings every 2.5cm (1 inch) in depth. The CPT exploration will be conducted by hydraulically advancing an instrumented Hoegogler 10cm² conical probe into the ground at a rate of 2cm per second using a 23-ton truck as a reaction mass. An electronic data acquisition system will record a nearly continuous log of the resistance of the soil against the cone tip (Q_c) and soil friction against the cone sleeve (F_s) as the probe is advanced.

Interpretation of CPT data provides soil classification, correlations for SPT blow count, phi (ϕ) angle (soil friction angle), undrained shear strength (S_u) of clays and over-consolidation ratio (OCR). Three (3) hand auger borings will be extended to a depth of 4 feet below ground surface adjacent to the CPT soundings to obtain near surface soil samples for laboratory testing.

After completion of the CPT soundings, they will be backfilled with bentonite pellets. **It will be the responsibility of the client to coordinate access to the project site for the exploration equipment at the time of the field investigation.**

Infiltration Testing for Retention Basin

Infiltration tests will be used to determine soil infiltration rate for stormwater infiltration rate. The infiltration testing will consist of three (3) tests at the retention basin location. The infiltration tests will be conducted in general conformance to with California Test Method 750 (1986) for a 6 inch diameter bore hole.

The holes will be presoaked to obtain soil saturation. After presoaking, a minimum of 6 tests will be taken for each test hole. The time required for the water level to drop 1 inch will be recorded. If the time required to drop 1 inch exceeds 60 minutes, readings will be made for ½-inch drop. No geotechnical exploration will be performed below the 6-inch bore holes. No laboratory tests will be made on auger cuttings obtained from excavation or below the bore holes.

Laboratory Testing

In-situ samples will be recovered to perform the following:

- ▶ Plasticity Index (ASTM D4318)
- ▶ Expansion Index (ASTM D4829)
- ▶ Moisture Density Relationship (ASTM D1557)
- ▶ R-Value (CTM 301)
- ▶ Chemical Analyses (soluble sulfates & chlorides, pH, and resistivity) (Caltrans Methods)

The laboratory testing program may be modified based on subsurface conditions encountered and exploration method used. Landmark's El Centro laboratory is certified in soils, aggregate, concrete, masonry, steel (rebar) and asphaltic concrete by AASHTO, Caltrans, CCRL, and the Division of State Architects (DSA) office.

ENGINEERING ANALYSES AND REPORT

We will provide an electronic copy (pdf format) of our geotechnical report that describes the work performed, the subsurface soils conditions encountered, and presents the findings of our work, along with professional opinions regarding geotechnical parameters required for design of the project. The report will be signed by a California Certified Engineering Geologist and a California Geotechnical Engineer in accordance with CGS Note 48. Our report will address the following:

- ▶ faulting/seismic shaking/seismic design parameters
- ▶ subsurface soil stratigraphy
- ▶ liquefaction potential
- ▶ site grading
- ▶ foundation design criteria (shallow foundations/structural mats)
- ▶ allowable soil pressures (vertical & lateral) for shallow foundations
- ▶ anticipated settlements
- ▶ concrete recommendations for aggressive soils
- ▶ corrosion potential for metals in concrete and native soils
- ▶ excavation conditions
- ▶ groundwater depth
- ▶ pavement structural sections

FEE

We have established the following fees for the stated work-scope:

Geotechnical Investigation and Laboratory Testing	\$8,800.00
Infiltration Testing for Storm Water Basin	\$3,000.00
Plan Review and Review Letter Prep	\$1,200.00
Consultation During Design	\$2,500.00
Total	\$15,500.00

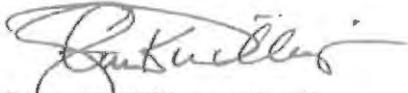
The fee does not include environmental studies or construction and inspection services. The costs for these services will be provided in accordance with our fee schedule rates, which are current when the additional services are requested. Prevailing wage rates will be paid for field exploration activities.

Our field work for the geotechnical investigation can usually commence within a week after receiving authorization to proceed, depending on the weather, site access, and site conditions. *It will be the responsibility of the client to provide access to the project site for the field exploration.* The report will be submitted approximately two to three weeks after the completion of the field work.

Landmark will provide a Certificate of Insurance for Professional Liability (E&O), Workers Comp, Auto and General Liability to the City of Calexico upon authorization to proceed. Insurance limits are \$1,000,000 minimum.

The opportunity to provide professional services for project design is appreciated. Please contact our office with any questions or comments at (760) 370-3000.

Sincerely Yours
Landmark Consultants, Inc.



Steven K. Williams, PG, EG
Senior Geologist



Jeffrey O. Lyon, PE
President

TERMS FOR GEOTECHNICAL ENGINEERING SERVICES

1.0 Parties

The parties to this Agreement for Services are: LANDMARK CONSULTANTS, INC. ("CONSULTANT") and City of Calxico ("CLIENT").

2.0 Complete Agreement

This Agreement consists of: these Terms; the attached Proposal dated February 20, 2019 and identified as L19-038G, and any Fee Schedule, or other Exhibits or Attachments referenced by or incorporated into the Proposal. The above described documents constitute the entire Agreement between the parties with regard to the subject matter thereof. This Agreement supersedes all previous Agreements between the parties. There are no Agreements, representations, or warranties between the parties other than those set forth in this Agreement.

3.0 Project Site

3.1 Existing Conditions

CLIENT will provide to CONSULTANT all available information regarding the existing and proposed site conditions. Such information shall include, but not be limited to, plot plans, topographic surveys, hydrographic data, and previous soil data, including borings, field tests, laboratory tests and written reports. CLIENT will provide to CONSULTANT any new information concerning site conditions as such information becomes available or upon any change in such information.

3.2 Project Site

CLIENT shall point out all property lines for the benefit of CONSULTANT, and will, if necessary for CONSULTANT, provide boundary markers established by a licensed land surveyor. CLIENT shall point out, for the benefit of CONSULTANT, the location of all underground infrastructure, utilities and similar installations.

3.3 Responsibility for Accurate Information

Client, and not CONSULTANT, is responsible for the accuracy of the information provided regarding existing conditions, and the project site. CONSULTANT shall not be liable to CLIENT for any claim or damage relating to the work product of CONSULTANT, where such work product is based, in whole or in part, on inaccurate information concerning existing conditions or the project site furnished by CLIENT. CLIENT will defend and indemnify CONSULTANT against all claims, demands, or liabilities arising out of or related to the provision of such inaccurate information.

3.4 Repair of Underground Damage

In the case of damage relating to the work product of CONSULTANT, where such work product is based, in whole or in part, on inaccurate information concerning existing conditions or the project site furnished by CLIENT, such damage may be repaired, at the option of CONSULTANT, such repair to be paid for by CLIENT to CONSULTANT at the rate of cost plus 15%.

3.5 Site Access

CLIENT shall grant to CONSULTANT free access to the site for all equipment and personnel necessary for CONSULTANT to perform the services provided herein. CLIENT shall notify all persons or entities in possession of the project site, that CLIENT has granted CONSULTANT such free access to the site. CLIENT shall take all action required to secure permission (and any permits) necessary to allow CONSULTANT free access to the project site. Such action taken by CLIENT shall be at no charge to CONSULTANT unless specifically agreed to in writing by the parties in the attached PROPOSAL.

4.0 Compensation

CLIENT shall pay CONSULTANT for services as set out in the PROPOSAL and any EXHIBITS or ATTACHMENTS thereto. Invoices for services submitted by CONSULTANT to CLIENT shall be due and payable upon presentation. An invoice shall be considered delinquent if payment has not been received within thirty (30) days from date of invoice. CLIENT will pay an additional charge of one percent (1.0%) per month (or the maximum percentage allowed by law whichever is lower) on any delinquent amount, excepting any portion of the invoiced amount in dispute or resolved in favor of CLIENT. Payment on a delinquent account invoice will first be applied to accrued charges and then to the unpaid principal.

CONSULTANT may stop performing services if any payment, including any payment for additional services, is not made to CONSULTANT as agreed to under this Agreement.

Additional services beyond the scope of the Proposal, which include meetings, presentations, responses to governing agency review, responses to design team member reviews, revisions to draft reports, or changes in the scope of services, will be invoiced as extra work on a time and materials basis in accordance with the Fee Schedule of CONSULTANT.

5.0 Termination

This Agreement may be terminated by either party either: seven (7) days after written notice, in the event of any breach of any provision of this Agreement, or if CLIENT suspends the work for more than three (3) months. In the event of termination, CLIENT shall pay CONSULTANT for all services performed prior to the date of termination, plus reasonable termination expenses including, but not limited to, cost of completion analysis, records, and reports necessary to document job status at the time of termination.

6.0 Relationship of Parties

CONSULTANT shall, for all purposes, be an independent contractor as to CLIENT and under no circumstances shall the relationship of employer and employee, or that of a fiduciary, exist between the agents or employees of CONSULTANT and CLIENT.

7.0 Successors and Assigns

This Agreement shall be binding upon the successors and assigns of each of the parties hereto in respect to all of the provisions hereof. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any of the parties, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the parties to this Agreement.

8.0 Damage Limitation

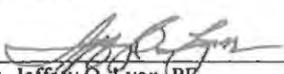
The liability of CONSULTANT to CLIENT for any claim or damage arising from any breach of contract, error or omission, or in any way arising from the provision of services by CONSULTANT under this Agreement, shall be limited to our insurance coverage. Further, CONSULTANT shall not be liable to CLIENT for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings, or other incidental (as defined in Commercial Code section 2715 (1)) or consequential (as defined in Commercial Code section 2715(2)) damages.

9.0 Legal Fees

If either party to this Agreement shall bring any action, claim, appeal, or alternative dispute resolution proceedings, for any relief against the other, declaratory or otherwise, to enforce the terms of or to declare rights under this Agreement (collectively, an Action), the losing party shall pay to the prevailing party a reasonable sum for attorneys' fees and costs incurred in bringing and prosecuting such Action and/or enforcing any judgment, order, ruling, or award (collectively, a Decision) granted therein. Any Decision entered in such Action shall provide for the recovery of attorneys' fees and costs incurred in enforcing such Decision. The court or arbitrator may fix the amount of reasonable attorneys' fees and costs on the request of either party. For the purposes of this paragraph, attorneys' fees shall include, without limitation, fees incurred in the following: (1) post-judgment motions and collection actions; (2) contempt proceedings; (3) garnishment, levy, and debtor and third party examinations; (4) discovery; and (5) bankruptcy litigation. "Prevailing party" within the meaning of this paragraph includes, without limitation, a party who agrees to dismiss an Action on the other party's payment of the sums allegedly due or performance of the covenants allegedly breached, or who obtains substantially the relief it seeks.

10.0 Governing Law and Venue

This Agreement shall be interpreted in accordance with the substantive and procedural laws of the State of California. All actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in State court located in Imperial County, California, and Federal court located in the County of Imperial, or if there is not federal court in Imperial, in San Diego County, in the State of California. The aforementioned choice of venue is mandatory, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or a similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the above referenced state and federal courts shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute or proceeding arising out of or related to this Agreement. Each party hereby authorizes service of process sufficient for personal jurisdiction in any action against it at the address and in the manner for the giving of notice as set forth in this Agreement.

 CLIENT	Landmark Consultants, Inc. CONSULTANT
By:	By:  Jeffrey O. Lyon, PE
Title: CITY MANAGER	Title: President
Date: 2/25/19	Date: 02/20/19



780 N. 4th Street
El Centro, CA 92243
(760) 370 3000
(760) 337-8900 fax

77-948 Wildcat Drive
Palm Desert, CA 92211
(760) 360 0665
(760) 360-0521 fax

May 27, 2020

Mr. Diego Favila
Calexico Fire Chief
415 E. Fifth Street
Calexico, CA 92231

**Cost Proposal for Construction Materials Testing
Calexico Fire HQ Station
415 E. Fifth Street
Calexico, California
LCI Proposal No. L20-081T**

Dear Mr. Favila:

We are providing a unit rate proposal for construction materials testing and inspection services associated with the proposed new Calexico Fire HQ Station located at 415 E. Fifth Street in Calexico, California.

Field Testing (Prevailing Wage Rates)

Compaction Testing – 100 hrs @ \$98/hr	\$9,800
Asphaltic Concrete Testing – 8 hrs @ \$98/hr	\$784
Concrete Testing/Retrievals – 120 hrs @ \$98/hr	\$11,760
Foundation Rebar Inspection (Engineer) – 8 hrs @ \$150/hr	\$1,200
Welding/Bolting/Masonry/Epoxy Inspection – 120 hrs @ \$98/hr	\$11,760
Trip Charge – 80 trips @ \$35/trip	\$2,800

Laboratory Testing

Maximum Density (Native/Import) – 3 @ \$250 ea.	\$750
Aggregate Base Conformance Testing – 1 @ \$950 ea.	\$950
Asphalt HVEEM Density – 1 @ \$200 ea.	\$200
Asphalt Ignition/Gradation – 1 @ \$350 ea.	\$350
Concrete Compressive Strength – 20 sets @ \$150 set	\$3,000
Grout/Mortar Compressive Strength – 10 sets @ \$180 set	\$1,800

Engineering Oversight/Reports

\$8,000

Total: \$53,154

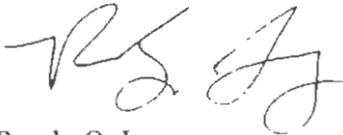
A 2-hour minimum charge shall apply to all field testing services and shall accrue in two hour increments. Overtime hours (after 3 pm weekdays, over 8 hours per day, and anytime Saturdays) shall be invoiced at 1.5 times the normal rate and double time hours (Sundays and over 12 hours per day) shall be invoiced at 2.0 times normal rates.

Typically, we cannot accurately forecast the progress of the job and the number of trips required for the testing laboratory to perform the tests necessary to conform to project specifications. The fee estimate provided herein may vary (increase or decrease) depending on the contractor's control of the work. The unit rates provided herein shall be used for the work provided by our firm. ***This is a unit rate proposal.***

The opportunity to assist in providing construction materials testing and inspection services for this project is appreciated. Our laboratory is Caltrans, AASHTO, AMRI, and CCRI, certified. Landmarks is registered with the Department of Industrial Relations with DIR #1000004057 and expiration date of June 30, 2022.

Sincerely Yours,

Landmark Consultants, Inc.

A handwritten signature in black ink, appearing to read 'Randy O. Lyon', written in a cursive style.

Randy O. Lyon
President