

**CITY OF COACHELLA
PROFESSIONAL SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made and entered into this 9th day of October, 2019 by and between the City of Coachella, a municipal corporation organized under the laws of the State of California with its principal place of business at 1515 Sixth Street, Coachella, California 92236 (“City”) and KOA Planning & Engineering, a California Corporation with its principal place of business at, 1100 Corporate Center Drive, Suite 201, Monterey Park, California 91754 (“Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties.”

2. RECITALS.

- 2.1 City. City is a municipal corporation organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.
- 2.2 Consultant. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing Professional Design Engineering Services to public clients, is licensed in the State of California, and is familiar with the plans of the City.
- 2.3 Project. City desires to engage Consultant to render such services for the Plans, Specifications and Estimate, including Right of Way Acquisition Services for the Improvement of Avenue 50 from Calhoun to Cesar Chavez Street, City Project ST-93.

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 program management 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 9th, 2019 to December 31st, 2021, 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 Control and Payment of Subordinates; Independent Contractor. 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. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also 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 expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. 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. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows:

Jimmy H. Lin, PE, KOA Corporation – Chief Executive Officer

3.2.5 City's Representative. The City hereby designates Jonathan Hoy, P.E. – City Engineer, or his designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the

City for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates Jimmy H. Lin – Chief Executive Officer, or his or 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 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. Finally, 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, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions 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 Laws and Regulations. 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 Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall indemnify and hold City, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 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.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subconsultants. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: **\$1,000,000**; per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: **\$1,000,000** per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.2.10.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than **\$1,000,000** per claim, and shall be endorsed to include contractual liability.

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

(A) General Liability. The general liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects

the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Consultant shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

3.2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.10.8 Verification of Coverage. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this

Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.9 Reporting of Claims. 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 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. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

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 "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **five hundred forty-five thousand three hundred sixty dollars (\$545,360)** without written approval of City Manager. 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 itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

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 City's Representative.

3.3.5 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 1600, 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. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents 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 Accounting Records.

3.4.1 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.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 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.

3.5.1.2 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.

3.5.1.3 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.

3.5.2 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:

KOA Corporation
1100 Corporate Center Dr. Ste. 201
Monterey Park, CA 91754
Attn: Jimmy H. Lin

City:

City of Coachella
1515 Sixth Street
Coachella, CA 92236
Attn: Jonathan Hoy, P.E. – City Engineer

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.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 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”). 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 provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City’s sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and 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.

3.5.4 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.

3.5.5 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification. To the fullest extent permitted by law, Consultant shall 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, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or relating to any negligence, errors or omissions, recklessness, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Consultant's Services, including without limitation the payment of all consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its directors, officials, officers, employees, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

3.5.7 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. This Agreement may only be modified by a writing signed by both parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

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

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

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

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 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.

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

3.5.15 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.

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

3.5.17 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.

3.5.18 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. Further, 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.

3.5.19 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.

3.5.20 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 Workers' 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.

3.5.21 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.


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

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work 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.

CITY OF COACHELLA

KOA Corporation

By: 
William B. Pattison Date
City Manager

By:  10-10-2019
Jimmy Lin, Date
Chief Executive Officer

By:  10/23/19
Carlos Campos, City Attorney Date

Attest:

By:  10/24/2019
Deputy City Clerk, Andrea Carranza Date

Exhibit "A"



PROPOSAL FOR THE DEVELOPMENT OF PLANS, SPECIFICATIONS, AND ESTIMATE FOR THE IMPROVEMENT OF AVENUE 50 BETWEEN THE COACHELLA WEST CITY LIMITS (APPROXIMATELY ONE QUARTER MILE WEST OF CALHOUN STREET) AND CESAR CHAVEZ STREET

PROJECT OVERVIEW

The project entails the improvement of Avenue 50 between the west Coachella City Limits (approximately one quarter mile west of Calhoun Street and Cesar Chavez Street). The design of the improved street will include:

- two through lanes of traffic in each direction
- complete pavement replacement or rehabilitation as required
- curb and gutter
- a center raised and landscaped median
- auxiliary turn lanes at signalized intersections
- a class II bike lane in each direction
- sidewalks on each side
- continuous lighting
- drainage improvements including retention basins on the south side of Avenue 50 west of Cesar Chavez Street
- striping and signing
- new traffic signal at De Oro and Avenue 50 and other signal modifications as required
- demolition and removal of existing improvements
- landscaping and irrigation
- traffic control during construction
- erosion control
- specifications
- construction cost estimate
- right of way acquisition services
- utility coordination
- project management services
- construction phase services

SCOPE OF SERVICES

Task 1 – Project Management and Administration

The KOA Team staff will meet with the City engineering staff at the outset of the project to establish the design parameters for this project. Under the project management task, KOA will be responsible for maintaining contact with the City's Project Manager to keep him informed of the developments on the project. The following specific subtasks will be performed:

- Management of project team including sub-consultants
- Participating in coordination and progress meetings which include preparing minutes
- Submitting Monthly Progress Reports and Invoices including updating Schedules
- Quality Control of Submittals



An initial Kick-off meeting will be held at the beginning of the project. As part of this meeting, KOA will prepare a draft agenda for the meeting that will include:

- Introductions
- Project goals and expectations
- Discussion of proposed work plan and schedule
- Available data
- Communications protocol

KOA will prepare minutes of the meeting and will circulate the draft minutes back to City staff for review and comments. The minutes will document decisions made and identify action items for KOA and the City. We will setup monthly meeting schedule on our calendar after the kickoff meeting.

Deliverables:

- Meeting agendas
- Meeting minutes
- Monthly invoices and progress reports

Task 2 - Surveying and Base Mapping

An aerial survey has been provided as a base for the design development. However, the limits of the project are now better defined than at the beginning of the concept development phase, and additional survey will be required to extend the project from Calhoun west to the City limits, and to obtain topographic information of the properties to be acquired for the construction of the project. Therefore additional aerial survey will be necessary for those areas and for the approaches to the Cesar Chavez Street and Avenue 50 intersection.

The resulting base mapping of the combined survey data will be prepared at a 1"=20' scale to allow for a sufficient level of detail design development.

Deliverables:

Updated survey base map with TIN surface in AutoCAD .DWG format

Task 3 – Utility Potholing and Utility Coordination

Preliminary utility research has been performed as part of the conceptual plan development, and potential conflicts between utilities and the proposed construction have been identified. KOA will subcontract with a potholing company to expose the potential conflicts and note the lateral and vertical locations. After identifying locations that will require potholing, we will contact Dig Alert to field mark buried utilities. We anticipate that to adequately identify utility potential utility conflicts up to 6 slot potholes may be required. Once we have identified the actual locations of the buried utilities, we will contact the utility companies to inform them of the conflicts and begin discussions with them on utility protection, adjustment, or relocation.

Deliverables:

- Potholing report

Task 4 – Design Progress Submittal (60%)

KOA will prepare the preliminary level of design for the project. The plans will include:

- Title Sheet
- Typical Sections
- Demolition Plan
- Roadway Plan and Profiles

- Drainage Plans, Profiles and Details
- Signing and Striping Plan
- Intersection Details
- Hardscape Details
- Traffic Signal Plans
- Landscaping and Irrigation Plan
- Lighting Plan
- Erosion Control Plan
- Traffic Control Plan
- Cross-sections

KOA will prepare a draft set of specifications and an opinion of probable construction cost. We will submit the plans, specifications, and estimate to the City staff for review. KOA will meet with City staff to review the City's comments. Edits to the plans, specifications, and estimate will be made as part of the 90% design submittal.

KOA will identify potential utility conflicts and will summarize them in a utility conflict matrix. 60% plans will be sent to the utility companies.

Deliverables:

- Preliminary plans (60%)
- Preliminary specifications (60%)
- Preliminary cost estimate (60%)
- Utility conflict matrix
- Review meeting agenda
- Review meeting minutes
- Comment response form

Task 5 – Right of Way Acquisition Services

Right of way acquisition will be required. KOA will submit the right of way acquisition proposal separate from this proposal as a separate phase.

Task 6 –Complete Plans, Specifications, and Estimate (90%)

KOA will complete any edits to the plans, specifications, and estimate based on City comments to the 60% design. Additional level of detail will be added to the sheets assembled for the 60% design. The plans will include:

- Title Sheet
- Typical Sections
- Demolition Plan
- Roadway Plan and Profiles
- Drainage Plans, Profiles and Details
- Signing and Striping Plan
- Intersection Details
- Hardscape Details
- Traffic Signal Plans
- Landscaping and Irrigation Plan
- Lighting Plan
- Erosion Control Plan
- Traffic Control Plan

- Cross-sections

KOA will prepare a complete set of specifications and an opinion of probable construction cost. We will submit the plans, specifications, and estimate to the City staff for review. KOA will meet with City staff to review the City's comments. Edits to the plans, specifications, and estimate will be made as part of the 100% design phase. We will prepare a comment response form to track the edits for the preparation of final design.

Deliverables:

- Complete plans (90%)
- Complete specifications (90%)
- Complete cost estimate (90%)

Task 7 – Final Plans, Specifications and Estimate (100%)

KOA will address any comments from the 90% City review. The final plans will include:

- Title Sheet
- Typical Sections
- Demolition Plan
- Roadway Plan and Profiles
- Drainage Plans, Profiles and Details
- Signing and Striping Plan
- Intersection Details
- Hardscape Details
- Traffic Signal Plans
- Landscaping and Irrigation Plan
- Lighting Plan
- Erosion Control Plan
- Traffic Control Plan
- Cross-sections

KOA will prepare a final set of specifications and an engineer's opinion of probable construction cost.

We will submit signed and sealed reproducible [plans, specifications and estimate in AutoCAD and MS Word and Excel formats for bidding purposes.

Deliverables:

- Final plans in AutoCAD
- Final specifications in MS Word
- Final Engineer's estimate in MS Excel

Task 8 – Bidding Support

KOA will prepare responses to Request for Information (RFI) during the bid advertisement period, and will assist the City in issuing any bid addendums.

Deliverables:

- RFI responses
- Bid addendum assistance



Task 9- Construction Support

KOA will provide construction support services, which may include material submittal reviews, site visits, and preparation of RFI responses. KOA will prepare as-built drawings based on redline mark ups of changes provided by the City or the contractor. (fee and scope to be determined based on plans, specifications, and estimate as a separate phase)

STAFFING

KOA has assembled a team to deliver the project as scoped, on schedule, and in budget. Our proposed staffing plan is summarized in the following matrix.

Avenue 50 Staffing Plan			
Name	Classification	Role	Hours
Jimmy Lin	Principal II	Principal in Charge	24
Chuck Stephan	Principal II	QAQC Manager	100
Charlie Schwinger	Senior Engineer II	Project Manager/Lead Civil Engineer	255
Ray Wang	Senior Engineer I	Lead Drainage Engineer	56
Eric Yang	Senior Engineer I	Lead Traffic Engineer	112
Anne Azzu	Senior Planner II	Local Coordination	20
Edward Okitsu	Senior Designer II	Lighting Designer	108
Ling Luo	Associate Engineer II	Production Engineer	610
Raisa Garcia	Associate Engineer II	Production Engineer	610
Jennifer Miller	Associate Engineer II	Production Engineer	74
Christine Adley	Senior Office Administrator	Project Administrator	80
Survey by WestLAND Group, Inc.			
Right of Way Services by Epic Land Solutions, Inc.			
Landscape Architecture by David Volz Design			
Potholing by Ultra Engineering Contractors			

SCHEDULE

KOA has proposed a 17 month schedule for plan production, review, and bidding. The proposed schedule correlates with the tasks outlined in the scope of services.

Task	Avenue 50 Design Schedule															
	2019				2020											
	Aug	Sep	Oct	Nov	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Task 1 - Project Management and Administration	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Task 2 - Surveying and Base Mapping	■															
Task 3 - Utility Potholing and Utility Coordination	■															
Task 4 - Design Progress Submittal (60%)	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
City Review																
Task 5 - Right of Way Acquisition Services																
Task 6 - Complete Plans, Specifications and Estimate																
City Review																
Task 7 - Final Plans, Specifications and Estimate (100%)																
Task 8 - Bidding Support																
Task 9 - Construction Support																

FEE

The proposed fee for Tasks 1-4 and 6-8 is \$374,979.00 and is detailed in the fee attachment.



KOA Fee Estimate for Design of Avenue 50 Tasks 1-4 and 6-8													
Task	Principal II	Senior Engineer II	Senior Planner I	Senior Engineer I	Senior Designer I	Associate Engineer II	Senior Office Admin	KOA Direct Costs	Total KOA Cost	Westland	DVD	UEC	Total Cost
	\$265.00	\$215.00	\$180.00	\$180.00	\$130.00	\$115.00	\$80.00						
Task 1 – Project Management and Administration	24	60	20				80	\$400.00	\$29,660.00				\$29,660.00
Task 2 - Surveying and Base Mapping		2				16		\$100.00	\$2,370.00	\$16,644.00			\$19,014.00
Task 3 – Utility Potholing and Utility Coordination		2				12		\$200.00	\$2,010.00			\$25,000.00	\$27,010.00
Task 4 – Design Progress Submittal (60%)	0	93	0	120	50	766	0	\$300.00	\$136,485.00		\$20,000.00		\$156,485.00
Title Sheet (1 sheet)		1				10			\$1,365.00				\$1,365.00
Key Map 1(sheet)		1				10			\$1,365.00				\$1,365.00
General Notes (1 sheet)		1				10			\$1,365.00				\$1,365.00
Control Points (1 sheet)		1				10			\$1,365.00				\$1,365.00
Typical Sections (2 sheets)		1				20			\$2,515.00				\$2,515.00
Demolition Plan (6 sheets)		6				60			\$8,190.00				\$8,190.00
Roadway Plan and Profiles (16 sheets)		32				130			\$21,830.00				\$21,830.00
Drainage Plan and Profiles and Details (3 sheets)		4		32		50			\$12,370.00				\$12,370.00
Signing and Striping Plan (4 sheets)		1				30			\$3,665.00				\$3,665.00
Intersection Details (2 sheets)		2				20			\$2,730.00				\$2,730.00
Hardscape Details (1 sheet)		1				16			\$2,055.00				\$2,055.00
Landscaping and Irrigation Plans (17 sheets)		1				30			\$3,665.00		\$20,000.00		\$23,665.00
Traffic Signal Plans (2 sheets)		1		24		30			\$7,985.00				\$7,985.00
Lighting Plans (4 sheets)		1			50	50			\$12,465.00				\$12,465.00
Erosion Control Plan (4 sheets)		1				30			\$3,665.00				\$3,665.00
Traffic Control Plans (8 sheets)		2		24		60			\$11,650.00				\$11,650.00
Cross Sections (37 sheets)		8				160			\$20,120.00				\$20,120.00
QAQC				40					\$7,200.00				\$7,200.00
Specs		20							\$4,300.00				\$4,300.00
Estimate		8				40			\$6,320.00				\$6,320.00
Task 6 - Complete Plans, Specifications and Estimate	0	78		108	50	556	0	\$300.00	\$106,950.00		\$10,000.00		\$116,950.00
Title Sheet (1 sheet)		1				6			\$905.00				\$905.00
Key Map 1(sheet)		1				6			\$905.00				\$905.00
General Notes (1 sheet)		1				6			\$905.00				\$905.00
Control Points (1 sheet)		1				6			\$905.00				\$905.00
Typical Sections (2 sheets)		2				10			\$1,580.00				\$1,580.00
Demolition Plan (6 sheets)		2				40			\$5,030.00				\$5,030.00
Roadway Plan and Profiles (16 sheets)		24				120			\$18,960.00				\$18,960.00
Drainage Plan and Profiles and Details (3 sheets)		2		24		24			\$7,510.00				\$7,510.00
Signing and Striping Plan (4 sheets)		1		12		24			\$5,135.00				\$5,135.00
Intersection Details (2 sheets)		1				8			\$1,135.00				\$1,135.00
Hardscape Details (1 sheet)		1				8			\$1,135.00				\$1,135.00
Landscaping and Irrigation Plans (4 sheets)		1				24			\$2,975.00		\$10,000.00		\$12,975.00
Traffic Signal Plans (2 sheets)		1		16		24			\$5,855.00				\$5,855.00
Lighting Plans (4 sheets)		1			50	34			\$10,625.00				\$10,625.00
Erosion Control Plan (4 sheets)		1				24			\$2,975.00				\$2,975.00
Traffic Control Plans (8 sheets)		1		16		60			\$9,995.00				\$9,995.00
Cross Sections (37 sheets)		8				100			\$13,220.00				\$13,220.00
QAQC				40					\$7,200.00				\$7,200.00
Specs		20							\$4,300.00				\$4,300.00
Estimate		8				32			\$5,400.00				\$5,400.00
Task 7 - Final Plans, Specifications and Estimate (100%)		12		32	8	60		\$400.00	\$16,680.00		\$5,000.00		\$21,680.00
Task 8 - Bidding Support		8		8		8		\$100.00	\$4,180.00				\$4,180.00
													\$0.00
Total	24	255	20	268	108	1418	80	\$1,800.00	\$298,335.00	\$16,644.00	\$35,000.00	\$25,000.00	\$374,979.00



PROPOSAL FOR RIGHT OF WAY ACQUISITION SERVICES FOR THE IMPROVEMENT OF AVENUE 50 BETWEEN THE COACHELLA WEST CITY LIMITS (APPROXIMATELY ONE QUARTER MILE WEST OF CALHOUN STREET) AND CESAR CHAVEZ STREET

PROJECT OVERVIEW

The project entails the improvement of Avenue 50 between the west Coachella City Limits (approximately one quarter mile west of Calhoun Street and Cesar Chavez Street). It is anticipated that to construct the improvement, right of way will need to be acquired through total acquisition of 6 residential properties, and partial acquisition of seven other properties.

Right of way acquisitions services will include:

- Order and review preliminary title reports (assume 13)
- Appraisal oversight (assume 13)
- Document preparation for offer packages (assume 13)
- Acquisitions and negotiations (assume 13)
- Escrow services coordination (assume 13)
- Relocation assistance – residential (assume 6)
- Quality assurance/quality control
- Project management (meetings, file maintenance, file close out, status reports, etc.)

KOA will sub-consult the preparation of property descriptions to WestLAND Group, Inc., and the other acquisition services to Epic Land Solutions, Inc.

Assumptions for the Right of Way Acquisition services include:

- 6 client meetings, monthly status reports, and related tasks
- 13 properties will be impacted
- 13 appraisals will be prepared
- No appraisal reviews will be needed
- No business relocations will be necessary
- No loss of business goodwill appraisals will be necessary
- City will provide right of way document templates
- No eminent domain support services are included
- 6 full residential acquisitions will be required
- Relocation for 6 residences will be required
- Displacements will be cooperative
- Coordination of phase I or phase II site assessments is not in the scope
- Project can be completed in 12 months without delays
- Deposition, court testimony and expert witness are not included in the scope
- Proposal is valid for 90 days
- Litigation guarantee is not in the scope
- Hourly rates may be adjusted 3% at the beginning of each calendar year



SCHEDULE

KOA has proposed a 6 month schedule for right of way acquisition services.

FEE

The proposed fee for Task 5 is \$170,381.00 and is detailed in the fee attachment.



(Letterhead Additional pages template)



KOA Fee Estimate for Design of Avenue 50 for Task 5														
Task	Principal II	Senior Engineer II	Senior Planner I	Senior Engineer I	Senior Designer I	Associate Engineer II	Senior Office Admin	KOA Direct Costs	Total KOA Cost	Westland	Epic	DVD	UEC	Total Cost
Task 5 - Right of Way Acquisition Services	8	12	\$180.00	\$180.00	\$130.00	\$115.00	\$80.00		\$6,720.00	\$15,191.00	\$148,470.00			\$170,381.00