

April 22, 2024

Steve Ledbetter, PE
TKE Engineering, Inc.
2305 Chicago Avenue
Riverside, CA 92507

Subject: Development Impact Fee Analysis Update for City of Needles

Dear Mr. Ledbetter:

Thank you for requesting that KOA Corporation (KOA) provide this proposal for assistance with updating the impact fee analysis for the City of Needles (the "City"). As part of the update to the Development Impact Fee (DIF) program, TKE Engineering requested that KOA update the impact fee analysis to incorporate development assumptions from the 2019 Culinary Water and Sanitary Sewer Master Plan. KOA has defined the scope of services based on our coordination with TKE Engineering and their subconsultant. Michael Nilsson and Armin Jorgenson will be the key staff members representing KOA in this effort.

The scope of work is provided below for review by TKE Engineering (Client), followed by a fee estimate. Once approved, this will be an addendum to our existing contract between KOA and TKE. Let us know if you have any questions or comments regarding this letter proposal.

SCOPE OF WORK

In order to determine the projected development growth within the City, KOA will compile the future growth land use assumptions developed as part of the City's 2019 Culinary Water and Sanitary Sewer Master Plan. Projected development will be identified for the North Needles and Urban In-Fill/South Needles areas, as discussed in Chapter 4 of the Master Plan. Trip generation rates for land uses evaluated as part of this effort will stay consistent to what was modeled (through SBTAM) as part of the City's Land Use and Circulation Element.

Projected development growth will be expressed in undeveloped units for residential uses, undeveloped square footage for commercial and industrial uses, and undeveloped rooms/units for lodging uses. A brief summary outlining the methodology and data sources for the projected development assumptions will be provided along with a summary table of the forecast growth.

The requested trip data will be developed for each land use using data from the model runs conducted for the Circulation Element update using the San Bernardino Transportation Analysis Model (SBTAM) or from recognized sources such as the Institute of Transportation Engineers (ITE) *Trip Generation Manual*. A brief summary outlining the methodology and data sources for calculating the trip estimates and attributes will be provided along with a summary table of the trip data.

MEETINGS

KOA has not allowed for any in-person meetings within this contract. KOA will be available for general coordination and up to five (5) conference calls to discuss progress and results.

FEE ESTIMATE/SCHEDULE

The fee to prepare the above scope is **\$6,500**. We expect to complete this work within **4-6 weeks** of receiving a Notice to Proceed from TKE.

The budget is based upon the work scope and level of effort presented above and includes the cost of all related technical and administrative services. The work scope is considered complete upon transmittal of the final data by KOA. Any additional services requested after study submittal will be considered as extra work and those fees will be negotiated prior to start of work and secured in writing.

If the work described within this letter is not authorized in 30 days, if changes occur in the work scope or level of effort, or if our work is suspended for more than 180 days due to any circumstances beyond KOA's control, we reserve the right to revise the work scope, budget and schedule to reflect current conditions. Such revisions will be affected through mutually agreed upon amendments or modifications to this agreement.

The proposal is valid for 30 days and is subject to a 5% annual adjustment. Also, any individual tasks that are not authorized within 30 days of the date of this proposal are also subject to fee adjustments.

TERMS AND CONDITIONS

If any additional services and or change/modifications to Consultant's scope of services are proposed by Client, KOA shall, upon receipt of such written change or modification, determine the impact on both time and compensation and notify Client in writing. Upon agreement between Client and KOA as to the extent of said impacts to time and compensation, an amendment to this agreement shall be prepared describing such changes. Execution of the amendment by Client and Consultant shall constitute the Consultant's notice to proceed with the changed scope.

PAYMENT TERMS

Invoices will be submitted monthly, based upon our estimated percentage of completion. Accounts are past due after 30 days. All work will be immediately stopped if any invoice is unpaid for 60 days or more, and such delinquent invoice payments may be subject to a late payment penalty of 1.5 percent per month and/or turned over to a collections agency at our discretion.

ATTORNEY'S FEES

In the event that legal action is necessary to enforce the payment terms of this agreement, KOA shall be entitled to collect from the client any judgment or settlement sums due plus reasonable attorney's fees, court costs and other expenses incurred by KOA for such collection action and, in addition, the reasonable value of the KOA's time and expenses spent for such collection action, computed according to the KOA's prevailing fee schedule and expense policies.

STANDARD OF CARE

The standard of care applicable to KOA's scope of services shall be the degree of skill and care normally employed by professionals engaged to perform services similar to the services required herein at the same time and in the same geographic area as the performance of services hereunder and on projects similar in size and scope.

SAFETY

KOA is only responsible for the health and safety and the training of its employees and those individuals it is legally responsible for.

OPINION OF PROBABLE PROJECT COST AND CONSTRUCTION COST

Since KOA has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s) methods of determining prices, or over competitive bidding or market conditions, KOA's opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of KOA's experience and qualifications and represent its best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but KOA cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost prepared by KOA. However, KOA represents that it will use reasonable engineering care and judgment commonly exercised by an engineer in the same or similar circumstances in making and transmitting such cost estimates to the Client.

TERMINATION

The Client or KOA may terminate this agreement by giving the other party seven days written notice of such termination. KOA shall receive fee payments from the Client proportionate to the services completed as of the date of termination. The Client will be entitled to receive deliverables at the level of completion relative to the fee payments received by KOA. All outstanding valid invoices shall be paid to KOA. The client shall within thirty (30) calendar days of termination pay KOA for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this contract.

CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or KOA, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

DISPUTE RESOLUTION

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. The Client and KOA shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

LIMITATION OF LIABILITY

In recognition of the relative risks and benefits of the project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of KOA to the Client and to all of Client's other consultants, construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of KOA to all those named shall not exceed \$50,000, KOA's total fee for services rendered on this project, whichever is greater. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contractor warranty.

INSURANCE

KOA is fully able to meet the insurance requirements of projects of this type. The firm has coverage in the following areas: Professional Liability, Automobile Liability, General Liability, and cybersecurity. Our Worker's Compensation coverage meets the insurance requirements of California State law.

GOVERNING LAW

The laws of the State of California will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in the courts of that State.

AUTHORIZATION

The signature below and receipt of the required deposit indicates acceptance of this proposal and authorization to proceed.

Sincerely,
KOA | A Lochner Company



Michael Nilsson
Principal, Director of Planning

The person signing and executing this contract for Client represents and warrants that he or she is duly authorized and has legal capacity and actual authority to bind the Client to each and every term, condition and obligation of this Contract and that all requirements of the Client have been fulfilled to provide such actual authority. **By signing below, Client agrees with the terms and conditions attached hereto and hereby made a part of this agreement.**

Signature

Name (Please Print)

Date

Title (Please Print)

Client Purchase Order or Project Number