

CONTRACT SUMMARY SHEET

TO: THE OFFICE OF THE CITY CLERK,
COUNCIL/PUBLIC SERVICES DIVISION
ROOM 395, CITY HALL

DATE: 12/02/2010

FROM (DEPARTMENT): BOARD OF PUBLIC WORKS

CONTACT PERSON: DAVID P. CHANQUIN PHONE: 213 978-0260

CONTRACT NO.: C-109445 -1 COUNCIL FILE NO.: C-10-1711

ADOPTED BY COUNCIL: 11-19-2010

APPROVED BY BPW: 10-22-2010
DATE

- NEW CONTRACT
- AMENDMENT NO. 1
- ADDENDUM NO.
- SUPPLEMENTAL NO.
- CHANGE ORDER NO.

CONTRACTOR NAME: MGE ENGINEERING, INC.

TERM OF CONTRACT: 11-01-2010 THROUGH: 10-31-2014

TOTAL AMOUNT: N/A

PURPOSE OF CONTRACT:

TO EXTEND BY 4 YEARS THE CONSULTANT CONTRACT FOR AS-NEEDED DESIGN AND SUPPORT SERVICES FOR THE BRIDGE IMPROVEMENT PROGRAM

AMENDMENT NO. 1

to

CONTRACT NO. C-109445

BETWEEN

CITY OF LOS ANGELES

AND

MGE ENGINEERING, INC.

FOR

DESIGN AND CONSTRUCTION SUPPORT SERVICES

FOR

THE BRIDGE IMPROVEMENT PROGRAM

AMENDMENT NO. 1 TO CONTRACT NO. C-109445 FOR DESIGN AND CONSTRUCTION SUPPORT SERVICES BETWEEN THE CITY OF LOS ANGELES AND MGE ENGINEERING, INC.

This Amendment modifies Contract No. C-109445 (“Contract”) between the City of Los Angeles, Department of Public Works (hereinafter referred to as “CITY”) and MGE Engineering, Inc. (hereinafter referred to as “CONSULTANT”).

WITNESSETH

WHEREAS, the CITY issued a Request for Qualifications (RFQ) on December 23, 2003 for Design and Construction Support Services and CONSULTANT submitted a proposal in response; and

WHEREAS, CONSULTANT demonstrated qualifications to perform said services and was selected to perform the design services by City staff based on the evaluation criteria set forth in the RFQ; and

WHEREAS, the CONSULTANT is currently providing Design and Construction Support Services for the Bridge Improvement Program (hereinafter referred to as “PROGRAM”) and has the capacity and the experienced personnel to provide the required services; and

WHEREAS, the Bureau of Engineering of the City of Los Angeles, Department of Public Works (hereinafter referred to as “BUREAU”), is the Program Manager and oversees the CONSULTANT’S performance of this Contract; and

WHEREAS, the PROGRAM has issued task orders to the CONSULTANT for design and/or construction support of bridge projects that will not be completed by October 31, 2010; and

WHEREAS, the Contract will expire on October 31, 2010, and it is desired that this Contract be extended to October 31, 2014; and

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the conditions of this Contract No. C-109445, the Contract is amended as follows:

ARTICLE 1 **SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

No Change

ARTICLE 2 **DEFINITIONS**

No Change

ARTICLE 3 **PROJECT DESCRIPTION**

No Change

ARTICLE 4

RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CONSULTANT

Section 4.4 is hereby amended in its first paragraph to read as follows:

When the need for design and/or construction support services occur, Tasks will be assigned using one of the following procedures in consideration of the conditions present and at the discretion of the City:

- A Task Order Solicitation will be prepared by the PROGRAM and all Consultants on the list will be asked to submit a proposal. The Task Order will be issued to the pre-qualified on-call Consultant whose proposal represents the best overall value to the City. The selected firm will be rotated to the bottom of the list.
- A Project Task Order may be negotiated and offered to the firm on the top of the rotating list. If an agreement cannot be reached with the first firm, the City reserves the right to terminate negotiations with the first firm and begin negotiations with the next firm on the list. This process will continue until the negotiations are successful. The selected firm will be rotated to the bottom of the list.
- In certain circumstances, it may be necessary to assign a sole source Task Order to a Consultant on the pre-qualified on-call list. A sole source Task Order may be issued only after requesting approval from the City Engineer and the Board of Public Works.

All other information under Article 4 will remain the same.

ARTICLE 5

KEY CONSULTANT PERSONNEL

No Change

ARTICLE 6

RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CITY

Article 6 is hereby amended in its City representative to read as follows:

FROM: CITY designates **Phil Richardson** as its **ENGINEER** representing the CITY in all matters within the scope of this Contract relating to the conduct and approval of the work to be performed.

TO: CITY designates **Jim Treadaway** as its ENGINEER representing the CITY in all matters within the scope of this Contract relating to the conduct and approval of the work to be performed.

ARTICLE 7

TERM OF CONTRACT AND TIME OF EFFECTIVENESS

Article 7 is hereby amended in its first paragraph to read as follows:

Unless otherwise provided, the term of this Contract shall begin on the date of full execution of this Contract and shall expire on **October 31, 2014** unless terminated as provided under Article 8 or extended by amendment or change order to this Contract.

All other information under Article 7 will remain the same.

ARTICLE 8

TERMINATION

No Change

ARTICLE 9

SUBCONTRACT APPROVAL

Article 9 is hereby amended in its title and first paragraph to read as follows:

SUBCONSULTANT APPROVAL

CONSULTANT shall not use subconsultants to assist in performance of this Contract without the prior written approval of the CITY. If the CITY permits the use of subconsultants, CONSULTANT shall remain responsible for performing all aspects of this Contract. The CONSULTANT is required to provide the CITY a list of all subconsultants including the name and address of the firms. The CITY has the right to approve CONSULTANT'S subconsultants and the CITY reserves the right to request replacement of subconsultants. The CITY does not have any obligation to pay CONSULTANT'S subconsultants and nothing herein creates any privity between the CITY and the subconsultants. Wholly-owned subsidiaries of CONSULTANT shall not be considered subconsultants.

All other information under Article 9 will remain the same.

ARTICLE 10

COMPENSATION, INVOICING AND PAYMENT

No Change

ARTICLE 11

AMENDMENTS, CHANGES OR MODIFICATIONS

No Change

ARTICLE 12

INDEMNIFICATION AND INSURANCE

No Change

ARTICLE 13

INDEPENDENT CONTRACTORS

No Change

ARTICLE 14

WARRANTY AND RESPONSIBILITY OF CONSULTANT

No Change

ARTICLE 15

OWNERSHIP OF DATA

Article 15 is hereby amended to include the following:

15.3 Intellectual Property Warranty

15.3.1 CONSULTANT represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

15.4 Intellectual Property Indemnification

15.4.1 CONSULTANT, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the CITY, and any of its Boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorney's fees (both in-house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device,

instrumentation, software, hardware, or firmware used by CONSULTANT, or its subconsultants of any tier, in performing the work under this Contract; or (2) as a result of the CITY'S actual or intended use of any Work Product furnished by CONSULTANT, or its subconsultants of any tier, under the Agreement. Rights and remedies available to the CITY under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the CITY. The provisions of Article 15 shall survive expiration or termination of this Contract.

15.4.2 In CONSULTANT'S defense of the CITY Defendants, negotiation, compromise, and settlement of any such infringement action, the Los Angeles City Attorney's Office shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

15.4.3 Where any Work Product furnished by CONSULTANT (a) becomes the subject of an action, (b) is adjudicated as infringing a third party's Intellectual Property right, or (c) has its use enjoined or license terminated; CONSULTANT shall, with the CITY'S consent, do one of the following immediately. CONSULTANT shall at its expense either:

- i) procure for the CITY the right or license to continue using the Work Product; or
- ii) replace the Work Product with a functionally equivalent, non-infringing product.

Exercise of any of the above-mentioned options shall not cause undue business interruption to the CITY or diminish the intended benefits and use of the Work Product by the CITY under this Contract.

All other information under Article 15 will remain the same.

ARTICLE 16

NONDISCRIMINATION AND AFFIRMATIVE ACTION

Article 16 is hereby amended in its title and content to read as follows:

NONDISCRIMINATION

Unless otherwise exempt, this Contract is subject to the nondiscrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The CONSULTANT shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this Contract, CONSULTANT shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. The CONSULTANT shall also comply with all rules, regulations, and policies of the CITY'S Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by said Office. Any subcontract entered into by CONSULTANT, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with such obligations shall subject CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of CONSULTANT'S Contract with the CITY.

ARTICLE 17

DBE PARTICIPATION REQUIREMENTS

No Change

ARTICLE 18

SUCCESSORS AND ASSIGNS

No Change

ARTICLE 19

CONTACT PERSONS – PROPER ADDRESSES – NOTIFICATION

Article 19 is hereby amended in its CITY contact person and address to read as follows:

FROM: Contact Person: John C. Koo, S.E., Group Manager

Address: City of Los Angeles, Bureau of Engineering
Bridge Improvement Program
221 N. Figueroa St., Suite 350
Los Angeles, CA 90012

TO: Contact Person: John C. Koo, P.E., S.E., Group Manager

Address: City of Los Angeles, Bureau of Engineering

Bridge Improvement Program
1149 S. Broadway, Suite 750
Los Angeles, CA 90015

All other information under Article 19 will remain the same.

ARTICLE 20

FORCE MAJEURE

No Change

ARTICLE 21

SEVERABILITY

No Change

ARTICLE 22

DISPUTES

No Change

ARTICLE 23

ENTIRE CONTRACT

No Change

ARTICLE 24

APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

No Change

ARTICLE 25

**CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION
CERTIFICATE REQUIRED**

No Change

ARTICLE 26

BONDS

Article 26 is hereby amended in its entirety to read as follows:

All bonds which may be required hereunder shall conform to CITY requirements established by Charter, ordinance or policy and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

ARTICLE 27

CHILD SUPPORT ASSIGNMENT ORDERS

No Change

ARTICLE 28

LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

No Change

ARTICLE 29

AMERICANS WITH DISABILITIES ACT

No Change

ARTICLE 30

EQUAL BENEFITS ORDINANCE

Article 30 is hereby amended in its entirety to read as follows:

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

1. During the performance of the Contract, CONSULTANT certifies and represents that CONSULTANT will comply with the EBO.
2. The failure of CONSULTANT to comply with the EBO will be deemed to be a material breach of this Contract by the CITY.
3. If CONSULTANT fails to comply with the EBO, the CITY may cancel, terminate or suspend this Contract, in whole or in part and all monies due or to become due under this Contract may be retained by the CITY. The CITY may also pursue any and all other remedies at law or in equity for any breach.
4. Failure to comply with the EBO may be used as evidence against CONSULTANT in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
5. If the CITY'S Designated Administrative Agency determines that a CONSULTANT has set up or used its contracting entity for the purpose of evading the intent of the EBO, the CITY may terminate the Contract. Violation of this provision may be used as evidence against CONSULTANT in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

CONSULTANT shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Consultant will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

ARTICLE 31

WAIVER

No Change

ARTICLE 32

PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

No Change

ARTICLE 33

PERMITS

No Change

ARTICLE 34

CLAIMS FOR LABOR AND MATERIALS

No Change

ARTICLE 35

DISCOUNTS

No Change

ARTICLE 36

CONTRACTOR RESPONSIBILITY ORDINANCE

No Change

ARTICLE 37

BREACH

No Change

ARTICLE 38

COVENANT AGAINST CONTINGENT FEE

No Change

ARTICLE 39

CONDITIONS PRECEDENT TO EXECUTION OF THIS CONTRACT

No Change

ARTICLE 40

CONFLICT OF INTEREST

No Change

ARTICLE 41

RESTRICTION ON DISCLOSURES

No Change

ARTICLE 42

COMPLIANCE WITH STATUTES AND REGULATIONS

No Change

ARTICLE 43

INVENTIONS, PATENTS AND COPYRIGHTS

No Change

ARTICLE 44

CALTRANS AUDIT REQUIREMENTS

No Change

ARTICLE 45

SLAVERY DISCLOSURE ORDINANCE

No Change

The Contract is hereby amended to add the following Articles:

ARTICLE 46

AFFIRMATIVE ACTION PROGRAM

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

A. During the performance of a CITY contract, CONSULTANT certifies and represents that CONSULTANT and each subconsultant hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
2. Nothing in this Section shall require or prohibit the establishment of new classifications of employees in any given craft, work or

service category.

3. CONSULTANT shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the CITY'S supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, CONSULTANT shall certify on an electronic or hard copy form to be supplied, that CONSULTANT has not discriminated in the performance of CITY contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

D. CONSULTANT shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

E. The failure of any CONSULTANT to comply with the Affirmative Action Program provisions of CITY contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to CONSULTANT.

F. Upon a finding duly made that CONSULTANT has breached the Affirmative Action Program provisions of a CITY contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371

of the Los Angeles City Charter. In the event of such determination, such CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that CONSULTANT has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY contract, there may be deducted from the amount payable to CONSULTANT by the CITY under the Contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a CITY contract.
- H. Notwithstanding any other provisions of a CITY contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in CITY contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. CONSULTANT shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the CITY. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the Contract. The awarding authority may also require consultants and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this Section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, CONSULTANT may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, CONSULTANT must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the Contract is awarded.
 - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section

10.13 of the Los Angeles Administrative Code.

2. CONSULTANT may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.

L. The Office of Contract Compliance shall annually supply the awarding authorities of the CITY with a list of consultants and suppliers who have developed Affirmative Action Programs. For each consultant and supplier, the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and CONSULTANT.

M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of consultants, subconsultants and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the CONSULTANT, subconsultant or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the consultant's, subconsultant's, or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and

7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the CONSULTANT'S or supplier's work force to achieve the requirements of the CITY'S Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the CONSULTANT at his or her discretion. Approved Affirmative Action Agreements become the property of the CITY and may be used at the discretion of the CITY in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.
- Q. All consultants subject to the provisions of this Section shall include a like provision in all subcontracts awarded for work to be performed under the Contract with the CITY and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subconsultants as are applicable to the CONSULTANT. Failure of the CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject the CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 47

FALSE CLAIMS ACT

CONSULTANT acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the CITY under the False Claims Act (Cal. Gov. Code §§ 12650 et seq.), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

ARTICLE 48

EQUAL EMPLOYMENT PRACTICES

Unless otherwise exempt, this Contract is subject to the equal employment

practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, CONSULTANT agrees and represents that it will provide equal employment practices and CONSULTANT and each subconsultant hereunder will ensure that in his or her employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this Section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. CONSULTANT agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the CITY'S supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, CONSULTANT shall certify in the specified format that he or she has not discriminated in the performance of CITY contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- D. CONSULTANT shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY contracts. On their or either of their request CONSULTANT shall provide evidence that he or she has or will comply therewith.

- E. The failure of any CONSULTANT to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of CITY contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice, and an opportunity to be heard has been given to CONSULTANT.
- F. Upon a finding duly made that CONSULTANT has failed to comply with the Equal Employment Practices provisions of a CITY contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the CONSULTANT is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, CONSULTANT shall be disqualified from being awarded a contract with the CITY for a period of two years, or until CONSULTANT shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the CITY shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the CITY, or when an individual bid or proposal is submitted, CONSULTANT shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Contracts.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Hiring practices;
 - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

3. Training and promotional opportunities, and
4. Reasonable accommodations for persons with disabilities.

L. Any subcontract entered into by CONSULTANT, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of CONSULTANT to comply with this requirement or to obtain the compliance of its subconsultants with all such obligations shall subject CONSULTANT to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONSULTANT'S Contract with the CITY.

ARTICLE 49

FIRST SOURCE HIRING ORDINANCE

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

1. CONSULTANT shall, prior to the execution of the Contract, provide to the designated administrative agency (DAA) a list of anticipated employment opportunities that CONSULTANT estimates they will need to fill in order to perform the services under the Contract.
2. CONSULTANT further pledges that it will, during the term of the Contract, shall a) at least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) interview qualified individuals referred by CDD; and c) prior to filling any employment opportunity, the CONSULTANT shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONSULTANT interviewed and the reasons why referred individuals were not hired.
3. Any subcontract entered into by the CONSULTANT relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of the FSHO, and shall incorporate the FSHO.
4. CONSULTANT shall comply with all rules, regulations and policies promulgated by the DAA, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the DAA has determined that the CONSULTANT intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the City's authority to act under this article.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this Contract and otherwise pursue legal remedies that may be available if the DAA determines that the subject CONSULTANT has violated provisions of the FSHO.

EXCEPT AS EXPRESSLY MODIFIED herein, the Contract dated January 19, 2006 remains unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 on the day and year written below.

MGE ENGINEERING, INC.

By: *H T Khang*

Title: *president*

Date: *9/14/10*

CITY OF LOS ANGELES

By: *Cynthia M. Bix*

Title: President, Board of Public Works

Date:

11-30-10

By:

Date:

ATTEST:

JUNE LAGMAY, City Clerk

By: *June Lagmay*

Date: *12/6/10*

C-109445-1



APPROVED AS TO FORM:

CARMEN A. TRUTANICH, City Attorney

By: *Edw M. Jon*

Title: Assistant City Attorney

Date:

10-7-10