AGREEMENT WITH INDEPENDENT CONTRACTOR

Contractor Name and Address
HC Structural Engineers
235 Westlake Center Ste. 209
Daly City, CA 94015
(650) 557-4333
Humza@hcseonline.com

Contractor: Upon completion of work or agreed-upon work periods, mail invoice with above Agreement Number to:

Department: Public Works - Engineering
Attention: Rodolfo Ordoñez
Address: 701 Laurel Street
City, State, Zip: Menlo Park, CA 94025
Phone: (650) 330-6740

Sand Hill Reservoir #2 Roof Replacement

It is agreed between the City of Menlo Park, California, and Contractor as follows:

1. Services to be performed by Contractor. In consideration of the payments hereinafter set forth, Contractor shall perform services for City in accordance with terms, conditions and specifications set forth herein and in Exhibit “A” attached hereto for the City of Menlo Park.

2. Contract Term. The term of this agreement shall be from ___________ to Project Completion unless mutually agreed upon by City and Contractor in writing.

3. Payments. In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit “A,” City shall make payment to Contractor in the manner specified herein and in Exhibit “A.” Payments shall be monthly for the invoice amount or such other amount as approved by City, which approval shall not be unreasonably withheld. City shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by City. City shall have the right to receive, upon request, documentation substantiating charges billed to City. City shall have the right to perform an audit of the Contractor’s relevant records pertaining to the charges. In the event that the City makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the City at the time of contract termination. The City reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable. In no event shall total payment for all services under this agreement exceed $10,975.00 unless mutually agreed upon in writing by the City and Contractor.

4. Relationship of the Parties. Contractor agrees and understands that the work/services performed under this agreement are performed as an Independent Contractor and not as an employee of the City and that Contractor acquires none of the rights, privileges, powers or advantages of City employees.

5. Insurance and Indemnity. Contractor, at its own expense, shall provide and keep in force, commercial general liability insurance insuring against liability for bodily injury and property damage arising out of its work in an amount of not less than One Million Dollars ($1,000,000.00) for injury to, or death of one person in any one accident or occurrence, and in an amount of not less than One Million Dollars ($1,000,000.00) for injury to, or death of more than one person in any one accident or occurrence, and in the amount of not less than One Million Dollars ($1,000,000.00) per occurrence in respect to damage to property. City shall be named as an additional insured on Contractor’s commercial general liability insurance policy Contractor shall provide City with a certificate of insurance coverage evidencing said coverage, including a copy of all declarations of exclusions, prior to commencing work. The Contractor shall maintain Automobile Liability Insurance pursuant to this Contract in an amount of not less than One Million Dollars ($1,000,000) for each occurrence combined single limit or not less than One Million Dollars ($1,000,000) for any one (1) person, and one million dollars ($1,000,000) for any one (1) accident, and three hundred thousand dollars, ($300,000) property damage. Contractor shall maintain Workers’ Compensation coverage with statutory limits of liability, and Employer’s Liability with minimum limits of liability of $1,000,000 each accident and each employee. Contractor shall furnish evidence of waivers of subrogation in favor of City for the Workers’ Compensation and Employer’s Liability policies. Contractor shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of contractor pursuant to this Agreement, in the amount of not less than One Million Dollars ($1,000,000) per claim and annual aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein. To the full extent permitted by law Contractor agrees to defend, indemnify and hold City, its employees,
agents, officials and officers, harmless from any and all claims, liability for damages caused by contractor’s negligent performance of services under this agreement.

6. Non-assignability. Contractor shall not assign this Agreement or any portion thereof to a third party without the prior written consent of City, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement.

7. Termination of Agreement. The City may, at any time, terminate this Agreement, in whole or in part, for the convenience of City, by giving written notice specifying the effective date and scope of such termination. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereinafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the City upon Contractor’s receipt of final payment and shall be promptly delivered to the City. Upon termination, the Contractor may make and retain a copy of such materials. Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

8. Worker’s Compensation Insurance. Contractor agrees and understands that the City does not provide Worker’s Compensation Insurance to, or on behalf of, the Contractor for the work/services performed, but that said insurance is the sole responsibility of the undersigned.

9. Payment of Permits/Licenses. Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, prior to commencement of said work/services or forfeit any right to compensation under this Agreement.

10. Non-Discrimination. No person shall illegally be excluded from participation in, denied the benefits of, or be subjected to discrimination under this Agreement on account of their race, sex, color, national origin, religion, age, or disability. Contractor shall ensure full equal employment opportunity for all employees under this Agreement.

11. Retention of Records. Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the City, a federal agency, and the state of California.

12. Merger Clause. This Agreement, including Exhibit “A” and “B” attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document’s date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the City. In the event of a conflict between the terms, conditions, or specifications set forth herein and those in Exhibit “A” attached hereto, the terms, conditions, or specifications set forth herein shall prevail.

THIS CONTRACT IS NOT VALID UNTIL SIGNED BY BOTH PARTIES

[Signature]
Jesse Qurion, Interim Public Works Director

[Signature]
Pamela [Last Name]

Attest: City Clerk

[Signature]
Humza Chowdhury

[Signature]
Contractor Name Printed

[Signature]
[Last Name]

[Signature]
Contractor Signature

12/12/14

Contractor’s Tax I.D. Number or Social Security Number

Attachment: Exhibit A – Scope of Work
Exhibit B – Dispute Resolution
December 10, 2014

Project:
Sand Hill Reservoir #2 Roof Replacement Project
3630 Sand Hill Rd.
Menlo Park, CA

Client:
City of Menlo Park Engineering Division
Contact: Rodolfo Ordonez
701 Laurel St.
Menlo Park, CA 94025

Subject: PROPOSAL FOR STRUCTURAL ENGINEERING SERVICES

Dear Rodolfo:

I am pleased to present herein a proposal for structural engineering services for the subject project. The proposal is based on the scope and descriptions below, which are based on my knowledge of the project from the site visit I had conducted November 5, 2014. We have successfully engineered many projects such as yours thus far. You may view some of our most recent projects at www.hcseonline.com.

PROJECT DESCRIPTION

The project is an existing water reservoir for the City of Menlo Park located at 3630 Sand Hill Road Menlo Park, CA. The City is interested in replacing the roof of an existing reservoir which has deteriorated over time. The deterioration has caused settlement in the roof members, cracking of the sheathing, rusting in the roof connectors and other structural issues. The client has requested a proposal to provide structural engineering services for following services:

1. Create a roof condition report, as observed from the field visit on November 5, 2014, with recommendations on how to fix existing observed deterioration when implementing the new roof replacement. The report is to include structural analysis services as herein described. (Phase 1)

2. Cost for services to prepare the plans (City will be involved), specifications and engineering estimate for the project. (Phase 2A)

3. Report and Study on the feasibility of installing a photovoltaic system over the roof of the Water Reservoir #2. (Phase 2B-Optional)

Note: Any revisions required by The City of Menlo Park Engineering Division for the submitted plans are included in the service fee.
HCSE, Inc. will provide the following documents and drawings during **Phase 1**:  

- Observation Report

HCSE, Inc. will provide the following documents and drawings during **Phase 2A**:  

- Site Plan
- As-Built-Roof Framing Plan
- Sections
- Structural Engineering Calculations for the project
- Structural Details

HCSE, Inc. will provide the following documents during **Phase 2B (Optional)**:  

- Report and Study on the feasibility of installing a photovoltaic system over the roof of the Water Reservoir #2. The study would include the costs to construct the entire system, costs recovery period, and provide options to use or sell the energy created by the system to interested parties. Structural engineering analysis would be performed on the solar array.

The project will begin once a signed agreement has been reached with an initial expected duration of about 10-15 business days before the client receives the observation report for Phase 1. The timeline for Phase 2A, 2B will be determined at a later time but mutually agreeable to the client and consultant.

**SCOPE**

The scope of the proposed structural services is to produce an observation report for Phase 1 of the Water Reservoir #2 roof replacement project located at 3630 Sand Hill Road Menlo Park, CA. Phase 2A will consist of preparing the necessary plans, and specifications for the project. Phase 2B will consist of preparing a detailed report on the feasibility of adding a photovoltaic system over the entire roof area of Water Reservoir #2.

**DELIVERABLES**

**Phase 1:**

A wet-stamped and signed structural observation report for Phase 1 of the Water Reservoir #2 roof replacement project located at 3630 Sand Hill Road Menlo Park, CA. If any additional services are needed then they must be written on a separate contract and are considered outside the scope for this contract.
Phase 2A:

A set of wet-stamped and signed structural calculations and construction documents for Phase 2A of the Water Reservoir #2 roof replacement project located at 3630 Sand Hill Road Menlo Park, CA. If any additional services are needed then they must be written on a separate contract and are considered outside the scope for this contract.

Phase 2B (Optional):

A wet-stamped and signed report study for Phase 2B of the Water Reservoir #2 roof replacement project located at 3630 Sand Hill Road Menlo Park, CA. If any additional services are needed then they must be written on a separate contract and are considered outside the scope for this contract.

Fee

I have divided the fee into Basic Services, as generally recognized by most structural engineers. The allocation of the fees to the various phases is given in the table that follows these scope and fee summaries.

Basic Services

The purpose is to provide the Basic Services as described in the attached Scope of Services for a lump-sum fee as shown below:

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structural Observation Report</td>
<td>$800</td>
</tr>
<tr>
<td>Email/Correspondence</td>
<td>$350</td>
</tr>
<tr>
<td>Administrative/Misc. Costs</td>
<td>$200</td>
</tr>
<tr>
<td>Total</td>
<td>$1350</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phase 2A</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>As-Built-Roof Framing Plan</td>
<td>$1500</td>
</tr>
<tr>
<td>Gravity Analysis</td>
<td>$800</td>
</tr>
<tr>
<td>Uplift Analysis</td>
<td>Included</td>
</tr>
<tr>
<td>Email/Meetings/Correspondence</td>
<td>$600</td>
</tr>
<tr>
<td>Construction Documents</td>
<td>$1500</td>
</tr>
<tr>
<td>Detailing</td>
<td>$700</td>
</tr>
<tr>
<td>Printing Costs</td>
<td>$150</td>
</tr>
<tr>
<td>Administrative/Misc. Costs</td>
<td>$250</td>
</tr>
<tr>
<td>Total</td>
<td>$5500</td>
</tr>
</tbody>
</table>
Phase 2B (Optional) ................................................................. Fee
Solar Consultant ................................................................. $1500
Gravity Analysis ................................................................. $1500
Solar Array Uplift Analysis .................................................. $2500
Email/Meetings/Correspondence ......................................... $1500
Report/Study ........................................................................ $2000
Site Visit ............................................................................... $375
Administrative/Misc. Costs .................................................. $250
Total .................................................................................... $9625

Additional Services

Construction Administration $135/hr.

The permitted construction documents shall be the direction provided to the contractor for permissible work to be done for the project. Any substitutions or requested revisions to the permitted construction documents shall be reviewed by the engineer at the request of additional services by the owner.

AGREEMENT

Upon acceptance of this proposal, including the attached “Standard Term and Conditions,” I am pleased to commence performance of the professional services described in this proposal.

If you wish to accept this proposal and request me to proceed with the performance of professional services as described herein, please have an authorized representative indicate such agreement by signing and returning an original of this proposal to me for my file with a check deposit paid to "HC Structural Engineering" in the amount of $1350.00. We also do offer over the phone credit card payments with a 3% fee for your convenience.
I look forward to working with you on this project. If you have questions or comments regarding this proposal, please give me a call.

Sincerely,

[Signature]

Humza Chowdhry, M.S., C.E., S.E.  Accepted by:
Principal
C74927, S6091

Signature: ____________________________

_______________________________

Date: __________________________

Return to:
HC Structural Engineering, Inc.
1700 South Amphlett Blvd Ste 230
San Mateo, CA 94402

Attachments:  Standard Terms and Conditions
EXHIBIT “B”

DISPUTE RESOLUTION

B1.0 All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:

B2.0 Mediation

B2.1 The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator’s fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph 3.1.

B3.0 Arbitration

B3.1 Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph 2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the contract.

B3.2 The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:

B3.3 Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.

B3.4 The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years’ experience in construction litigation.

B3.5 All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.

B3.6 The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.

B3.7 Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.

B3.8 The prevailing party shall be awarded reasonable attorneys’ fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.9 Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.10 The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.