

City of Westminster

8200 Westminster Blvd.
Westminster, CA 92683

**AGREEMENT FOR WESTMONT ELEMENTARY SCHOOL WATER
WELL FEASIBILITY STUDY**

THIS AGREEMENT, made and entered into this _____ day of _____, 2025, between the City of Westminster (CITY), a municipal corporation located in the County of Orange, State of California, and GHD, Inc. (CONSULTANT) with principal offices at _____.

WITNESSETH

WHEREAS, CITY desires to engage CONSULTANT to provide Feasibility Study to the City of Westminster; and

WHEREAS, CONSULTANT is experienced in providing such services for municipal corporations and is able to provide personnel with the requisite experience and background to carry out these duties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises hereinabove stated, the parties hereto agree as follows:

I. SERVICES TO BE PERFORMED

CITY agrees to engage CONSULTANT to perform the various services as described, but not limited to, within CONSULTANT'S scope of work, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by this reference as if set forth in full.

II. TIME FOR PERFORMANCE

CONSULTANT shall begin work within ten (10) days following execution of this Agreement by CITY. CONSULTANT shall attempt to complete all tasks within the timeline agreed upon by the CITY and the CONSULTANT. The CONSULTANT shall be responsible for its work schedule only to the extent that the CONSULTANT has reasonable control over the work schedule. This agreement shall remain in effect until June 2026.

III. PERFORMANCE

CONSULTANT agrees to perform all work in accordance with the requirements of this Agreement and within the time hereinafter specified. If the quality of work fails to comply with the requirements of this Agreement, CITY, in its discretion, has the right to:

- A)** Meet with CONSULTANT to review the quality of the work and resolve the matter(s) of concern;
- B)** Require CONSULTANT to reproduce the work at no additional fee until it complies with this Agreement; and/or
- C)** Terminate the Agreement as hereinafter set forth.

IV. COMPLIANCE WITH LAW

All services rendered hereunder shall be provided in accordance with the requirements of relevant local, State, and Federal laws.

V. FAMILIARITY WITH WORK

By execution of this Agreement, CONSULTANT warrants that:

- A)** It has thoroughly investigated and considered the work to be performed;
- B)** It possesses any and all licenses which are required under State or Federal law to perform the work contemplated by this Agreement, and shall maintain all appropriate licenses during the performance of this Agreement;
- C)** It has expertise in the area of providing program management professional services;
- D)** It carefully considered how the work should be performed; and
- E)** It fully understands the difficulties and restrictions attending the performance of the work under this Agreement.

VI. COMPENSATION

A. Services Described in Proposal

For the provision of all services rendered under this Agreement in accordance with the scope of services attached hereto as **Exhibit "A"** and all expenses associated therewith, CITY shall pay CONSULTANT the amount specified in **Exhibit "A"**. The amount of this agreement not to be exceed is \$41,577.

B. Additional Services

For any additional services, change orders or any additional compensation of any nature to be proposed for payment to CONSULTANT by CITY, such modification of this original Agreement shall be a written request executed by CONSULTANT and approved in writing by CITY.

It is specifically understood that oral requests or approvals of such additional services, change orders, or additional compensation and any approvals from CITY shall be barred and are unenforceable.

C. Payment Procedure

CONSULTANT shall, on the first of each month, submit a monthly invoice to the CITY for work performed. Within ten (10) working days of receipt of such invoice, CITY shall determine whether CONSULTANT has satisfactorily performed the work described in the invoice. CITY shall thereafter pay CONSULTANT on a monthly basis, within 30 days following receipt of CONSULTANT's invoice.

VII. TERMINATION

This Agreement may be terminated with or without cause by CITY at any time by providing CONSULTANT with written notice of termination no less than thirty (30) calendar days in advance of such termination, provided CITY will not terminate for cause without providing CONSULTANT written notice of the breach and a period of ten (10) days to cure. In the event of such termination, CONSULTANT shall be compensated for services rendered as

of the date of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the date of termination. In the event of such termination, CONSULTANT shall immediately stop rendering services under this Agreement unless directed otherwise by CITY, and shall deliver to CITY all plans, data, reports, summaries, data disks, and all such other information and materials as CONSULTANT may have accumulated in performing this Agreement. CITY shall not be liable for any claim of lost profits. Additionally any party may cancel the agreement as a result of negligent service given, at any time, provided that there has been a thirty (30) day warning given in advance to the other party that would allow the other party to correct the problem.

This Agreement may be terminated by CONSULTANT by providing CITY with written notice no less than thirty (30) calendar days in advance of such termination.

VIII. COORDINATION OF WORK

A. Selection of Representatives

The following principals of CONSULTANT are hereby designated as the principals and representatives of CONSULTANT authorized to act in its behalf with respect to the work specified in this Agreement:

1. _____
2. _____

The foregoing principals may not be changed by CONSULTANT without the express written approval of CITY.

B. CITY Representatives

The CITY'S representatives shall be:

1. Jake Ngo, Public Works Director
2. _____

or such other person as designated by the City Manager of the CITY. It shall be the CONSULTANT'S responsibility to assure that the CITY'S representative(s) is kept informed of the progress of the performance of the services, and the CONSULTANT shall refer any decision, which must be made by the CITY, to the representative(s). Unless otherwise specified herein, any required CITY approval shall mean the approval of the CITY representative(s).

IX. INDEPENDENT CONSULTANT

A. Consultant Status

CONSULTANT is an independent CONSULTANT and not an employee of CITY. Neither CITY nor any of its employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as herein set forth, and, CONSULTANT expressly warrants not to, at any time or in any manner, represent that CONSULTANT, or any of CONSULTANT'S officers, employees, or agents, are in any manner officers, employees, or agents of CITY. It is distinctly understood that said CONSULTANT is, and shall at all times, remain as to the CITY a wholly independent

CONSULTANT, and that CONSULTANT'S obligations to the CITY are solely such as are prescribed by this Agreement.

B. Consultant's Personal Services - Inducement

This Agreement contemplates that the CONSULTANT'S personal services and those of CONSULTANT'S officers, employees, and agents are a substantial inducement to the CITY for entering into this Agreement. CONSULTANT may not assign any interest in this Agreement, except upon written consent of CITY. CONSULTANT shall have no authority, express or implied, to bind CITY to any obligation whatsoever.

Furthermore, unless expressly provided otherwise in CONSULTANT'S proposal, CONSULTANT shall not subcontract any portion of the performance contemplated under this Agreement without the prior written approval of the CITY. Nothing in this Agreement shall be construed as preventing CONSULTANT from employing as many employees as CONSULTANT deems necessary for the proper and efficient execution of this Agreement.

CITY shall not have the right to control the means by which CONSULTANT accomplishes service rendered pursuant to this Agreement. CONSULTANT shall, at its sole cost and expense, furnish all facilities, materials and equipment that may be required for furnishing services pursuant to this Agreement.

X. INDEMNITY, DEFENSE, AND HOLD HARMLESS

CONSULTANT agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the negligence, recklessness, or willful misconduct of the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole negligence, active negligence or willful misconduct of the City and in no event shall the cost to defend charged to the design professional exceed the design professional's proportionate percentage of fault, as required and with the exception set forth in California Civil Code Section 2782.8. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

XI. INSURANCE

CONSULTANT shall procure and maintain for the duration of the contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Contract by CONSULTANT, his agents, representatives, employees or subconsultants:

- A. General Liability: \$2,000,000.00 combined single limit for each occurrence.
- B. Professional Liability: Appropriate to CONSULTANT's profession, written on a "claims made" basis with a limit of no less than \$2,000,000 per claim and \$2,000,000 in the aggregate.
- B. Worker's Compensation as required by the Labor Code of the State of California

Before CONSULTANT performs any work or prepares or delivers any materials, CONSULTANT shall furnish certificates of insurance and/or endorsements, as required by CITY, evidencing the foregoing insurance coverage on forms acceptable to the CITY, which shall provide that the insurance in force will not be canceled, modified or allowed to lapse without thirty (30) days' written notice to the CITY.

All insurance maintained by CONSULTANT shall be issued by companies admitted to conduct insurance business along the lines of insurance supplied in the State of California and having a Best's Guide rating of Grade A or better and Class VII or better by the latest editions of Best's Key Rating Guide.

Neither the CITY nor any of its elected or appointed officials, officers, agents, employees, or volunteers makes any representation that the types of insurance and the limits specified to be carried by CONSULTANT under this Agreement are adequate to protect CONSULTANT. If CONSULTANT believes that any such insurance coverage is insufficient, CONSULTANT shall provide, at its own expense, such additional insurance as CONSULTANT deems adequate.

The procuring of such insurance or the delivery of policies or certificates evidencing the same shall not be construed as a limitation of CONSULTANT'S obligation to indemnify the CITY, its elected or appointed officials, officers, agents, employees, or volunteers.

XII. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, the CONSULTANT agrees as follows:

The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, marital status, national origin, or mental or physical disability. The CONSULTANT will ensure that applicants are employed and that employees are treated during employment, without regard to their age, race, color, religion, sex, marital status, national origin, or mental or physical disability. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

The CONSULTANT shall, in all solicitations and advertisements for employees placed by, or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to age, race, color, religion, sex, marital status, national origin, or mental or physical disability. The CONSULTANT shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by the Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

XIII. MISCELLANEOUS

A. Ownership of Documents

All reports, as well as all original reproducible drawings, plans, studies, memoranda, computation sheets, floppy disks, and other documents and materials assembled or prepared by CONSULTANT or CONSULTANT'S agents, officers, or employees in connection with this Agreement, including any and all copyright interest therein, shall be the property of the CITY and shall be delivered to the CITY upon either the completion or termination of the Project. Any modification or reuse of such documents for purposes other than those intended by this Agreement shall be at CITY's sole risk and without liability to CONSULTANT. Copies of said documents may be retained by CONSULTANT, but shall not be made available by CONSULTANT to any individual or organization without the prior written approval of CITY, except as required by law. CONSULTANT or CONSULTANT'S agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

B. Notices

Any notices to be given pursuant to this Agreement shall be given by enclosing the same in the sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, addressed as follows:

CITY:

City of Westminster
8200 Westminster Blvd.
Westminster, CA 92683
Attn: _____

CONSULTANT:

Attn: _____

C. Enforcement of Agreement

This Agreement shall be construed and interpreted as to both validity and performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and CONSULTANT covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

D. Disputes

In the event of any dispute arising under this Agreement, the injured Party shall notify the injuring Party in writing of its contentions by submitting a claim therefore.

The injured Party shall continue performing its obligations hereunder so long as the injuring Party cures any default within ninety (90) calendar days after service of the notice, or if the cure of the default is commenced within thirty (30) calendar days after service of said notice and is cured within a reasonable time after commencement; provided that, if the default creates an immediate danger to the health, safety, and general welfare, the CITY may take immediate action. Compliance with the provisions of this Section shall be a condition precedent to any legal action, and such compliance shall not be a waiver of any Party's right to take legal action in the event that the dispute is not cured.

E. Waiver

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. CITY's consent or approval of any act by CONSULTANT requiring CITY's consent to or approval of any subsequent act of CONSULTANT, or any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

F. Conflicts Of Interest

CONSULTANT agrees that it shall not make, participate in the making, or in any way attempt to use its position as a CONSULTANT to influence any decision of the CITY in which the CONSULTANT knows or has reason to know that CONSULTANT, its officers, partners, agents, or employees have a financial interest as defined in Section 87103 of the Government Code.

G. Audit of Records

In accordance with generally accepted accounting principles, CONSULTANT shall maintain reasonably full and complete records of the cost of and completion of services performed under this Agreement. During the term of this Agreement and for a period of two (2) years after termination of this Agreement, the CITY shall have the right to inspect and/or audit CONSULTANT'S records pertaining to this contract and the services to be performed hereunder at CONSULTANT'S office location. CONSULTANT agrees to make available all pertinent records for the purpose of such inspection and/or audit at its offices during normal business hours and upon three (3) calendar days' notice from the CITY.

H. Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

I. Legal Action

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct, or remedy and default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

J. Integration

This agreement represents the entire understanding of the CITY and the CONSULTANT. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in this Agreement. Any work performed, which is inconsistent with or in violation of the provisions of this Agreement, shall not be compensated. This Agreement may not be altered, amended, or modified except in writing executed by both Parties hereto.

K. Amendment

This Agreement may be amended only by the written mutual consent of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

CITY OF WESTMINSTER

CHRISTINE CORDON, CITY MANAGER

DATE

ATTEST:

ASHTON AROCHO, CITY CLERK

DATE

**JODIE GRINER,
DIRECTOR, HUMAN RESOURCES &
RISK MANAGEMENT**

DATE

APPROVED AS TO FORM:

SCOTT PORTER, CITY ATTORNEY

CONSULTANT – GHD, Inc.

SIGNATURE & TITLE

DATE

COMPANY NAME

ADDRESS, CITY, STATE, ZIP