

June 5, 2024

Revised: June 12, 2024

Akbar Farokhi  
Director of Public Works  
City of Hawthorne  
4455 W 126<sup>th</sup> St.  
Hawthorne, CA 90250

Subject: City of Hawthorne – Plan Check Services  
Structural Engineering Scope of Work

Labib Funk + Associates (LFA) appreciates the opportunity to provide our proposal for structural engineering services for plan check services for the City of Hawthorne.

Based on communications with your office, we propose to perform consulting structural engineering services as follows:

1. LFA will review structural plans and calculations for compliance with the most recently adopted state and local codes and ordinances.
2. LFA will review Architectural plans for City-owned projects, for compliance with the most recently adopted state and local codes and ordinances.
3. All plan check services will be performed by or under the responsible charge of a California licensed professional structural engineer eligible to prepare and sign such plans.
4. Plan review corrections lists will be completed in an approved format, shall be specific, detailed, complete, and reference plan sheet numbers and code sections where applicable.
5. LFA will designate one individual as the responsible contact for all communications between the City and LFA.
6. LFA will furnish assigned personnel with all necessary materials, resources and training to conduct plan review, including a current copy of applicable City Codes and amendments, policies, and procedures.
7. Plan review approval will not be recommended to the City until all code compliance issues are resolved to the best of LFA's knowledge and all permit issuance requirements of the City Building and Safety Division are satisfied. LFA will coordinate with the City if there are questions or other arrangements are requested.
8. All plans and materials will be made available electronically.
9. The approximate turn-around time for initial plan check is four (4) weeks, dependent on the scope of the project and two (2) weeks for secondary plan checks. An expedited plan check of approximately half the turn-around time for an increased fee of fifty percent (50%) more than the initial fee, dependent on the scope of the project.

10. LFA will conduct and coordinate all communications with the City's representative. As directed, LFA will send a copy of the plan review comments to the professional of record for the project and respond to permittee's questions within two (2) business days.
11. LFA will be available within one (1) business day to respond to questions from the City or the professional of records for the permit that may be generated during field inspection for each authorized plan check that is subsequently issued a permit for construction.

### **Exclusions**

1. Review and approval of FLS, and MEP plans.
2. Review of architectural plans on private projects.
3. Review and approval of Soils Reports. (Typically performed by Grading Department).
4. Special projects requiring Performance Based Design or other referenced standards. LFA reserves the right to provide a lump-sum fee for such services.

### **Fee**

We propose to provide the above-listed services on a lump sum per project basis in accordance with our *General Terms of Agreement*, a copy of which is attached for your review.

For City of Hawthorne Public Works projects, LFA will be checking at a rate of 50% of the City's plan check fees. For Private plan check services, LFA will be checking at a rate of 70% of the City's plan check fees. LFA understands the City collects approximately 1% of the project valuation for plan check.

Additional services, including additional meetings over what is included above, will be based on the following hourly rates which are valid for 365 days from the date of this proposal:

Draftsperson:	\$160.00	Project Manager:	\$230.00
Project Engineer:	\$200.00	Principal Engineer:	\$290.00

LFA welcomes the opportunity to work with you on this project. If this proposal is acceptable, please sign and email back to us. If you have any questions, please contact our office.

Sincerely,

Labib Funk + Associates



David Funk, S.E.  
 Principal

This proposal is open for acceptance for 30 days from the date above.

Authorized to Proceed:  
 City of Hawthorne

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **TERMS AND CONDITIONS**

***Effective 06/15/2023***

### **1. REIMBURSABLE EXPENSES**

Expenses other than salary costs that are directly attributable to our professional services are invoiced at our cost plus 15%. These expenses include such items as out-of-town travel expenses, use of personal and rental cars, special fees and permits, premiums for additional or special insurance where required, mailing, copying & printing expenses, etc.

### **2. SERVICES BY OTHERS**

When considered necessary, other technical firms or outside consultants may be used with your approval and the cost of such services, plus ten percent (10%), will be included in our invoice. Unless specifically agreed to in writing, LFA has retained no consultants for this project.

### **3. ACCESS TO SITE**

Unless otherwise stated, LFA will have access to the site for activities necessary for the performance of the services.

### **4. INSURANCE LIMITS**

Insurance limits are as follows: General Liability \$1,000,000 each occurrence & \$2,000,000 aggregate, Professional Liability \$1,000,000 each occurrence & \$1,000,000 aggregate. Workman's Comp \$1,000,000.

### **5. PAYMENTS TO ENGINEER**

Invoices will be submitted monthly for the prior month's services unless specified otherwise on Contract. Payment is due upon the invoice date and becomes delinquent thirty (30) days thereafter. In the event of non-payment, LFA may, without waiving any of the claims or rights against you, and without liability whatsoever to you, terminate performance of the services. A late charge will be added to delinquent amounts at the rate of one-and-one-half percent (1-1/2%) for each thirty (30) days delinquency (provided the rate of such late charge shall not exceed the maximum allowable by the laws of the state in which our office submitting the invoice is located, and if so exceeding, the interest rate shall be the maximum amount allowable in that state). All attorney's fees and expert fees, LFA's time, and costs shall be paid by the Client. Payment to LFA shall not be withheld, postponed, or made contingent on the construction, completion, or success of the project or upon receipt by the Client of offsetting reimbursement or credit from other parties caused additional services or expenses. No withholding, deductions or offsets shall be made from LFA's compensation for any reason unless LFA has been found to be legally liable for such amounts. Payment of LFA's fees shall be a condition precedent to bringing any action or suit against LFA.

### **6. STANDARD OF CARE**

LFA's services shall be provided consistent with and limited to the standard of care applicable to such services, which is that LFA shall provide its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. Such standard of care is not a warranty or guarantee and LFA shall have no such obligation. Accordingly, Client should prepare and plan for clarifications and modifications which may impact both the cost and schedule of the Project.

### **7. SCHEDULES & BUDGETS**

Any schedules or completion dates, budgets, or estimates of cost prepared by LFA represent LFA's professional judgment based on its experience and available information. Since neither LFA nor Client has control over the cost of labor, materials, or equipment, or contractor's methods of determining prices, or over competitive bidding or market conditions, LFA cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets, or estimates of cost prepared by LFA or proposed, established, or approved by Client.

### **8. OTHER PROVISIONS**

It is understood that LFA will not provide design and construction review services relating to safety precautions, means, methods, techniques or sequences of any contractor or subcontractor on the project. Further, it is understood that LFA will not provide any supervisory services relating to the construction of the project.

In recognition of the relative risks, rewards, and benefits of the project to both the client and LFA, the risks have been allocated so that the client agrees that, to the fullest extent permitted by law, LFA's total liability to the client and all other parties, for any and all injuries, claims, losses, expenses, attorney's fees and expert fees, damages or claim expenses arising out of this agreement, from any cause or causes, shall be limited to LFA's fee. Such causes include, but are not limited to, LFA's negligence, errors, omissions, strict liability, breach of contract or breach of warranty. Client intends that LFA's involvement with the project shall not subject the individuals affiliated with LFA or its subconsultants to personal exposure for the risk attendant to that involvement. Therefore, any remedies of Client and Client's related business entities concerning services performed pursuant to the obligations imposed by this agreement shall be sought against LFA and/or its subconsultants, if any, and any related business entities, and in no event shall damages or indemnification concerning this agreement and/or project ever be sought against LFA's principals, shareholders, employees, and other affiliated individuals, regardless of the kind and cause of loss involved.

LFA's services are intended for the Client's sole use and benefit and solely for the Client's use on the Project and shall not create any third-party rights. Except as agreed to in writing, Consultant's services and work product shall not be used or relied on by any other person or entity, or for any purpose following substantial completion of the Project.

Any revisions to the structural system due to Value Engineering or a Peer Review are not included in the basic services & will be charged as additional services.

If project is stopped for more than a 3-month period due to any reasons, a restart fee of \$4,000.00 will apply. Project will be designed & submitted to Plan Check to the Governing Authority in ONE Phase & in ONE unique submittal. Additional submittals to the Governing Authority due to Project Phasing will be charged as additional services based on hourly rates.

Either party to this Agreement may not assign its rights hereunder without the prior written consent of the other party. Nothing contained in this agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant.

**9. TERMINATION**

This agreement may be terminated by either party by seven (7) days' written notice to the other in the event of a substantial failure of performance by the other party through no fault of the terminating party. If this agreement is terminated, LFA shall be paid for services performed to the termination notice date, including reimbursable expenses due. If LFA for any reason does not complete all the services contemplated by this agreement, LFA cannot be responsible for the accuracy, completeness or workability of the contract documents prepared by LFA if used, modified, or completed by another party or the Client. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify, defend and hold LFA harmless from any claim, liability, or cost (including reasonable attorneys' fees and defense costs) for injury or loss arising or allegedly arising from such reuse, modification or completion made by any party to any contract documents prepared by LFA.

If Client sells the Project, Client shall obtain from buyer an agreement, for the benefit of Consultant, which guarantees that the release and indemnification of Consultant will be honored by buyer and any subsequent buyer. These provisions shall survive the termination of this Agreement; and in the event that any portion of these provisions shall be prohibited by law, then these provisions shall not be void, but rather shall be interpreted as applying only to fullest extent allowed by law.

**10. OWNERSHIP OF DOCUMENTS**

The drawings, calculations and specifications are instruments of service and are, and shall remain, the property of LFA, whether the project for which they are made is executed or not. They are not to be used on other projects or extensions to this project except by agreement in writing and with appropriate compensation to LFA. Reuse or modification of the project documents by Client, shall be at Client's sole risk and Client agrees to indemnify, defend, and hold LFA harmless from all claims, damages, and expenses, including attorney's fees, arising out of such reuse or modification by Client or by others acting through Client. If this agreement is terminated as discussed in Item 9 above, the Client shall pay a licensing fee as compensation of \$X,000 for the Client's continued use of LFA's Instruments of Service solely for purposes of completing, using, and maintaining the Project.

**11. VENUE**

Labib Funk + Associates (LFA) is a DBA of John Labib Structural Engineers, LLP.

This agreement shall be interpreted and enforced in accordance with the laws of the State of California. The venue of any action brought to interpret or enforce any of the terms of this agreement or otherwise adjudicate the rights or liabilities of the parties hereto shall be in Los Angeles County, California.

**12. BANKRUPTCY**

Consultant shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this agreement if Client files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against Client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court. If the suspension of performance of Consultant's obligation pursuant to this agreement continues for a period in excess of ninety (90) days, Consultant shall have the right to terminate all services pursuant to this agreement.

**13. LIEN RIGHTS**

This agreement shall not be construed to alter, affect, or waive any design professional's lien, mechanic's lien or stop notice right which Consultant may have for the performance of services pursuant to this agreement. Client agrees to provide to Consultant the present name and address of the record owner of the property upon which the project is to be located. Client also agrees to provide Consultant with the name and address of any and all lenders who may loan money on the project and who are entitled to receive a preliminary notice.

**14. THIRD PARTY LENDERS**

If payment for Consultant's services is to be made on behalf of Client by a third-party lender, Client agrees that Consultant shall not be required to indemnify the third-party lender, in the form of an endorsement or otherwise, as a condition to receiving payment for services.

**15. ADDITIONAL AGREEMENTS/GUARANTEES**

The Consultant shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the judgment of the Consultant, increase the Consultant's contractual or legal obligations or risk, or adversely affect the availability or cost of its professional or general liability insurance. Nor shall Consultant be required to sign any documents, requested by any party, including Client, that would result in the Consultant's having to certify, guarantee, warrant or state the existence of conditions whose existence the Consultant cannot ascertain. The Client also agrees not to make resolution of any dispute with the Consultant or payment of any money due to the Consultant, in any way contingent upon the Consultant's signing any such certification, guarantee, warranty or statement.

**16. CONDOMINIUMS AND FUTURE CONVERSION TO CONDOMINIUMS**

If Condominiums, or future conversions to Condominiums are proposed, undersigned shall provide LFA with proof of Owner purchased insurance plan for Condominiums naming LFA as insured for errors and omissions and general liability. Owner purchased insurance plan shall preempt and take effect prior to insurance provided by LFA. Owner to be responsible for each and every deductible regardless of allegations made against LFA. Insurance shall remain in force for 10 years after substantial completion.

**CONDO CONVERSION:** In the event that Owner or Owner's successor in interest or assigns converts or allows the conversion of the Project from an apartment project, as presently contemplated by the parties, to a project involving residential condominium ownership, then the other

provisions of this Agreement notwithstanding, LFA shall be released and indemnified by Owner from any damages or claims arising from or as a result of the conversion process which are brought by a unit owner or the unit owners' association. LFA shall not be released or indemnified, however, from (1) damages or claims arising prior to the commencement of the conversion of the Project. Owner will be released from the conversion obligations if (a) Owner does not convert the Project for a period of ten (10) years following substantial completion of the original construction of the Project; or (b) prior to the conversion process, Owner purchases and maintains Project specific professional liability insurance coverage with policy coverage's equal to the amounts required in the LFA contract for the benefit of LFA; or (c) if Owner sells the Project, Owner obtains from buyer an agreement, for the benefit of LFA, which guarantees the release and indemnification of LFA will be honored by buyer and any subsequent buyer. These provisions shall survive the termination of this Agreement; and in the event that any portion of these provisions shall be prohibited by law, then these provisions shall not be void, but rather shall be interpreted as applying only to fullest extent allowed by law.