ITEM NO. 20

STAFF REPORT

CITY OF OCEANSIDE

DATE: November 1, 2006

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **AUTHORIZATION TO AWARD A CONTRACT FOR THE CONSTRUCTION OF THE RAW WATER PIPELINE FOR WELLS 10 AND 11 PROJECT AND APPROVAL OF THE PROFESSIONAL SERVICES AGREEMENT WITH RBF CONSULTING FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

SYNOPSIS

Staff and the Utilities Commission recommend that the City Council award a contract in an amount not to exceed $2,086,300 to SEMA Construction of Lake Forest for construction of the Raw Water Pipeline for Wells 10 and 11 project, and authorize the City Manager to execute the agreement upon receipt of all supporting documents; and approve a professional services agreement with RBF Consulting of San Diego in an amount not to exceed $305,370 for construction management and inspection services related to the project; and authorize the City Manager to execute the agreement.

BACKGROUND

The Mission Basin Groundwater Purification Facility, located at 215 Fireside Drive (Exhibit A), was originally constructed and put into operation in 1994. The original facility produced 2.2 million gallons per day (mgd) of brackish groundwater by use of a reverse osmosis treatment process. A subsequent expansion project was to bring the capacity of the plant up to 6.37 mgd. This expansion, accepted by the City Council in February 2003, consisted of three additional production wells, nine monitoring wells, a high and low pump station, an additional reverse osmosis train and other infrastructure-related work. All work was satisfactorily completed with the exception of the production wells which, when drilled, did not produce sufficient quantities for production.

On June 2, 2004, City Council approved the professional services agreement with Infrastructure Engineering Corporation for the preparation of plans and specifications. In October 1998, City Council authorized a joint participation agreement between the City of Oceanside, San Diego County Water Authority (Authority) and the Metropolitan Water District (MWD) for participation in the Groundwater Recovery Program (GRP). As part of the GRP study, Authority has drilled 11 exploratory wells to map the Mission Basin for possible future use.

ANALYSIS

As part of the cooperative drilling project with the Authority, Oceanside had the Authority analyze up to five sites with an emphasis on three that can replace the poorly performing well sites 6, 7 and 8. Three of the sites are within a mile of the Mission Basin Groundwater Facility with one being on the plant site. The one at the plant site has recently been drilled by the Authority and during the test pumping produced up to 2,220 gallons per minute. The other two sites are scheduled to be drilled within the next few months. The City must have a raw water pipeline designed and constructed to utilize these new wells.

On August 16, 2006, four bids were received and opened for the Raw Water Pipeline for Wells 10 and 11 project. The apparent low bidder is SEMA Construction, of Lake Forest, with a bid in the amount of $2,086,300 (Exhibit B). Staff has reviewed the bid submitted by SEMA Construction and find that its bid bond and references are in accordance with City standards. The engineer's estimate to construct the project was $2,300,000.

To properly manage these projects during construction, the services of a construction management and inspection support team are required. On June 27, 2006, staff solicited proposals from twelve engineering firms (Exhibit C) to provide construction management and inspection services during construction of this project. The firms were selected from a list compiled by the City of Oceanside's Engineering Department using the City's selection procedures for professional services. Included in the solicitation were all Oceanside firms that provide these services.

On July 20, 2006, two proposals and three letters declining participation in the request for proposal solicitation were received by the Water Utilities Department. In accordance with the City's procedure, a panel was selected to evaluate the proposals. The panel unanimously recommended that RBF Consulting of San Diego be selected to provide the construction management and inspection services.

RBF Consulting's construction management and inspection duties will be to ensure that the project is constructed according to the plans and specifications. Additional duties to be performed include day-to-day monitoring and inspection of the work; geotechnical engineering and inspection services; surveying; special inspections as required; preparation of daily, weekly and monthly reports; processing of proposed change orders; processing submittals and requests for information; maintenance of logs for all correspondence, submittals, requests for information and change orders; attending weekly and monthly progress meetings; and generating and submitting detailed as-built construction drawings.

FISCAL IMPACT

In the adopted budget for Fiscal Year 2006-2007, City Council approved an appropriation of $4,720,709 for the Mission Basin Groundwater Purification Facility Expansion. The engineer's estimate to construct the project is $2,300,000, so adequate funds are available for the project.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The Utilities Commission reviewed and approved the award of this contract at its meeting on September 19, 2006.

RECOMMENDATION

Staff and the Utilities Commission recommend that the City Council award a contract in an amount not to exceed $2,086,300 to SEMA Construction of Lake Forest for construction of the Raw Water Pipeline for Wells 10 and 11 project, and authorize the City Manager to execute the agreement upon receipt of all supporting documents; and approve a professional services agreement with RBF Consulting of San Diego in an amount not to exceed $305,370 for construction management and inspection services related to the project; and authorize the City Manager to execute the agreement.

PREPARED BY:

Greg Blakely
Administrative Manager

SUBMITTED BY:

Barry E. Martin
Interim City Manager

Exhibit A - Site Map
Exhibit B - Bid Opening Results
Exhibit C - Request for Proposal Mailing List
Attachment 1 - Professional Services Agreement

REVIEWED BY:

Michelle Skaggs Lawrence, Assistant to the City Manager

Lonnie Thibodeaux, Interim Water Utilities Director

Exhibit A

Wells 10 and 11 with new 20 inch waterline

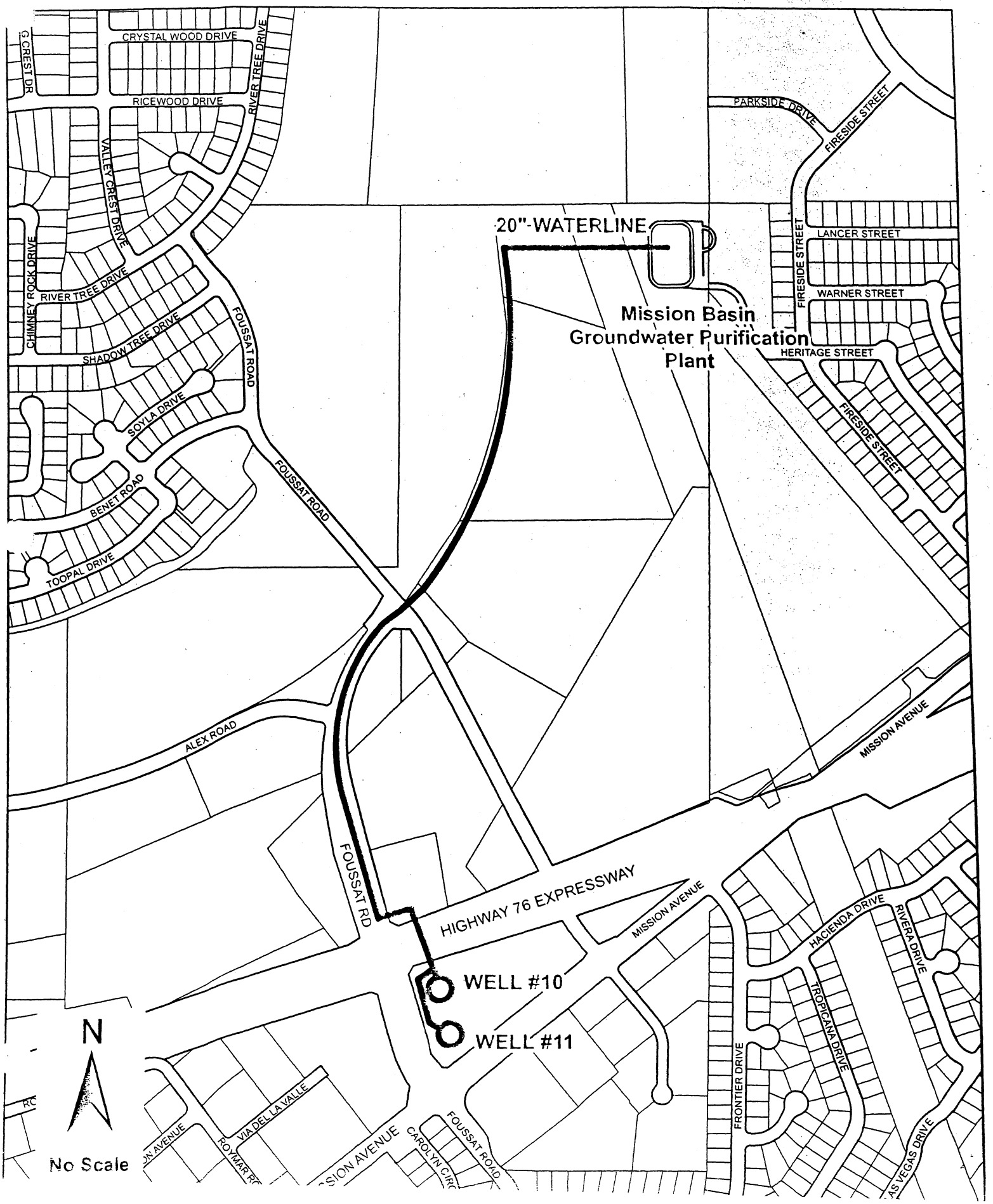

Exhibit B

City of Oceanside
Raw Water Pipeline for Well 10 11
(715-85563)

Bid Opening Results
August 16, 2006

Item No.	Description	LS or Qty	SEMA Construction	% of Average	BRH Garver West Inc.	% of Average	CCL Contracting Inc.	% of Average	Ross A. Guy & Son Inc.	% of Average	Engineer's Estimate	Avg of 4 Contractors
1	Mobilization, Bonds, Permits, and Demobilization (NTE 4% subtotal)	LS	$80,000	114%	$25,000	36%	$90,000	128%	$86,300	123%	$130,000	$70,325
2	Sheeting, Shoring, and Bracing & Dewatering	LS	$300,000	256%	$80,000	68%	$43,000	37%	$46,600	40%	$50,000	$117,400
3	Bore & Jack across Highway 76 from STA 8+07 to 10+09	LS	$200,000	73%	$270,110	99%	$508,000	186%	$116,400	43%	$282,800	$273,628
4	Bore & Jack across Foussat Road from STA 25+69 to 26+71	LS	$120,000	78%	$133,087	86%	$270,000	175%	$93,100	60%	$142,800	$154,047
5	Raw Water Collection Pipeline from STA 4+45 to STA 54+23 (Excluding Bore & Jack Sections)	4980 LF	$1,170,300	86%	$1,245,000	91%	$1,115,520	82%	$1,942,200	142%	$1,120,500	$1,368,255
6	Combination Air/Vacuum Valve Assemblies	3 EA	$22,500	92%	$24,714	101%	$36,000	146%	$15,120	62%	$75,000	$24,584
7	Blowoff Assemblies	1 EA	$10,000	143%	$5,796	83%	$8,000	114%	$4,190	60%	$7,500	$6,997
8A	Butterfly Valves - 12-inch	2 EA	$10,000	112%	$10,236	115%	$8,000	90%	$7,460	84%	$7,000	$8,924
8B	Butterfly Valves - 18-inch	1 EA	$8,000	113%	$7,902	112%	$7,000	99%	$5,430	77%	$6,800	$7,083
8C	Butterfly Valves - 20-inch	4 EA	$36,000	100%	$47,000	130%	$32,000	89%	$29,160	81%	$32,000	$36,040
9	Recessed Trench Plating	LF	$10,000	76%	$12,000	91%	$9,000	68%	$21,700	165%	$15,000	$13,175
10	Over Excavation and Imported Bedding	LS	$50,000	85%	$10,000	17%	$52,000	88%	$124,200	210%	$25,000	$59,050
11	Final Signing & Striping & Revegetation	LS	$10,000	51%	$42,000	214%	$15,000	76%	$11,600	59%	$25,000	$19,650
12	Traffic Control	LS	$20,000	96%	$30,000	144%	$15,000	72%	$18,600	89%	$40,000	$20,900
13	Pothole Utilities	LS	$25,000	111%	$30,000	133%	$20,000	89%	$14,900	66%	$30,000	$22,475
14	Preconstruction Videotapes & Photographs	LS	$2,500	97%	$2,500	97%	$3,000	116%	$2,330	90%	$4,000	$2,583
15	Imported and Compacted Fill (Adjacent to Fooussat Road at Bridge)	1500 CY	$12,000	16%	$150,000	194%	$123,000	159%	$24,000	31%	$55,000	$77,250
16	10% Contingency										$204,860	
	TOTAL		**$2,086,300**		**$2,125,345**		**$2,354,520**		**$2,563,290**		**$2,253,260**	**$2,282,364**
	% Difference from Average		-8.6%		-6.9%		3.2%		12.3%		-1.3%	0.0%
	% Difference from Engineer's Estimate		-7.4%		-5.7%		4.5%		13.8%		0.0%	1.3%

Exhibit C

Raw Water Pipeline for Wells 10 and 11 - CM RFP Mailing List

Company	Address	City	State	Zip
Moffatt & Nichol Engineers	1660 Hotel Circle North, Suite 200	San Diego	CA	92108
Pountney Consulting Group, Inc.	4455 Murphy Canyon Road, Suite 200	San Diego	CA	92123
Brown and Caldwell	9665 Chesapeake Drive, Suite 201	San Diego	CA	92123
Hirsch & Company	4499 Ruffin Road, Suite 300	San Diego	CA	92123
Dokken Engineering	9665 Chesapeake Drive, Suite 435	San Diego	CA	92123
RW Beck, Inc.	4167 Avenida De La Plata, Suite 115	Oceanside	CA	92056
Infratructure Engineering Corporation	717 Pier View Way	Oceanside	CA	92054
Cornerstone Engineering, Inc.	620 Mission Avenue	Oceanside	CA	92054
PBS&J	2303 Nicklaus Drive	Oceanside	CA	92056
Water 3 Engineering, Inc.	702 Civic Center Drive	Oceanside	CA	92054
Carollo Engineers	4167 Avenida De La Plata, Suite 114	Oceanside	CA	92056
Tetra Tech ASL, Inc.	2141 El Camino Real, Suite J	Oceanside	CA	92054

RAW WATER PIPELINE FOR WELLS 10 & 11 - 715.85.5663

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___day of _____, 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RBF CONSULTING, hereinafter designated as "CONSULTANT".

RECITALS

A. CITY desires to obtain professional engineering services from an independent contractor for the above named project.

B. CONSULTANT has submitted a proposal to provide engineering services for the CITY in accordance with the terms set forth in this Agreement.

C. CITY desires to contract with CONSULTANT as an independent contractor and CONSULTANT desires to provide services to CITY as an independent contractor.

D. CONSULTANT has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education and expertise.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1.0 **SCOPE OF WORK.** The CONSULTANT will perform construction management and inspection services, as described in the CONSULTANT'S proposal dated July 19, 2006, and attached hereto as Exhibit A.

1.1 **PROFESSIONAL SERVICES PROVIDED BY CONSULTANT.** The professional services to be performed by CONSULTANT shall consist of but not be limited to the following:

1.1.1 Work closely with the Water Utilities Director in performing work in accordance with this Agreement in order to receive clarification as to the result which the CITY expects to be accomplished by CONSULTANT. The Water Utilities Director, under the authority of the City Manager, shall be the CITY'S authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The Water Utilities Director may delegate

authority in connection with this Agreement to the Water Utilities Director's designees. For the purposes of directing the CONSULTANT'S performance in accordance with this Agreement, the Water Utilities Director delegates authority to Greg Blakely.

1.1.2 In compliance with Government Code section 7550, the CONSULTANT shall include a separate section in the proposal prepared pursuant to this Agreement, which contains a list of all the subcontractors and dollar amounts of all contracts and subcontracts required for the preparation of work described in this Agreement.

1.1.3 Visit and carefully examine the location of the project as often as necessary to become acquainted with all conditions which are visible or could reasonably be discovered, and which might have an impact upon the construction of the project.

1.1.4 Upon completion of construction, prepare, approve and sign a set of As-Built record drawings.

1.1.5 Provide office and field assistance to the City during construction periods upon request by Water Utilities Director to include the services listed below:

a. Provide consultation and advice to the City during construction of the project.

b. Review and make recommendations on all construction contract change orders and requests for clarification from the contractor.

c. Provide periodic visits to the site to monitor construction.

d. Attend meetings with the Water Utilities Director or his designees.

e. Provide a geotechnical survey.

f. Provide surveying services.

1.2 **SERVICES PROVIDED BY CITY.** The CITY shall perform the following services:

1.2.1 Provide access to all public improvement plans and records and furnish one copy of drawings and reports requested.

1.2.2 Obtain all necessary permits from other regulatory agencies and other Departments. CONSULTANT shall participate in the completion of such forms but CITY will submit these and pay for any applicable fees.

1.2.3 Upon request, verify the location of existing CITY owned utilities.

1.2.4 Provide all legal advertising mailings and postings required.

1.2.5 Duplicate all final plans and specifications.

1.2.6 Provide overall project management.

2.0 **TIMING REQUIREMENTS**

2.1 Time is of the essence in the performance of work under this Agreement and the following timing requirements shall be strictly adhered to unless otherwise modified in writing as set forth in Section 2.2. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by the CITY and the assessment of damages against the CONSULTANT for delays.

2.2 CONSULTANT shall submit all requests for extensions of time for performance in writing to the Water Utilities Director no later than ten (10) calendar days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The Water Utilities Director shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT'S control.

2.3 For all time periods not specifically set forth herein, the CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances, by either telephone, fax hand delivery or mail.

3.0 **DESIGN CRITERIA AND STANDARDS.** All work shall be performed in accordance with applicable CITY, state and federal codes and criteria. In the performance of its professional services, CONSULTANT shall use the degree of care and skill ordinarily exercised by CONSULTANT under similar conditions.

4.0 **INDEPENDENT CONTRACTOR.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the Water Utilities Director. The CONSULTANT shall not be authorized to

communicate directly with, nor in any way direct the actions of, any bidder or the construction contractor for this project without the prior written authorization by the Water Utilities Director. CONSULTANT shall be solely responsible for the performance of any of its employees, agents or subcontractors under this agreement.

CONSULTANT shall report to the CITY any and all employees, agents and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.

5.0 **CITY BUSINESS LICENSE.** Prior to the commencement of any work under this agreement, the CONSULTANT shall obtain and present a copy of an Oceanside City Business License to the Water Utilities Director.

6.0 **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will comply with such provisions and provide certification of such compliance as a part of these Award Documents. The certification shall be in accordance with Subsections 7.3 through 7.8 of this Agreement.

7.0 **LIABILITY INSURANCE.**

7.1 CONSULTANT shall, throughout the duration of this Agreement, maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including, but not limited to, premises and automobile.

7.2.1 CONSULTANT shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance
(bodily injury and property damage)

Combined Single Limit Per Occurrence	$ 1,000,000
General Aggregate	$ 2,000,000*

Commercial General Liability Insurance
(bodily injury and property damage)

General limit per occurrence	$ 1,000,000
General limit project specific	$ 2,000,000
Automobile Liability Insurance	$ 1,000,000

*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

7.2.2 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY'S Project Manager promptly of all losses or claims over $25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.

7.3 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this Agreement. Insurance coverage provided to the CITY as an additional insured shall be primary insurance and other insurance maintained by the CITY, its officers, agents and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

7.4 All insurance companies affording coverage to the CONSULTANT pursuant to this Agreement shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.

7.5 All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

7.6 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.

7.7 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.

7.8 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.

8.0 **PROFESSIONAL ERRORS AND OMISSIONS INSURANCE.** Throughout the duration of this agreement and four (4) years thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of One Million dollars ($1,000,000).

CONSULTANT shall provide evidence of compliance with these insurance requirements by providing a Certificate of Insurance.

9.0 **CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims or lawsuits for damages to persons or property arising out of the conduct, negligent acts, errors, omissions or wrongful acts of conduct of the CONSULTANT or its employees, agents, subcontractors or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, expert fees, attorneys' fees and liability assessed against or incurred by the CITY, its officers, agents or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT, at its own expense, shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents or employees resulting or arising from the tortuous acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

10.0 **ERRORS AND OMISSIONS.** In the event that the Water Utilities Director determines that the CONSULTANT'S negligence, misconduct, errors or omissions in the performance of work under this Agreement has resulted in

expense to CITY greater than would have resulted if there were no such negligence, errors or omissions in the plans or contract specifications, CONSULTANT shall reimburse CITY for the additional expenses incurred by the CITY, including engineering, construction and/or restoration expense. Nothing herein is intended to limit CITY'S rights under Sections 7, 8 or 9.

11.0 **NO CONFLICT OF INTEREST.** The CONSULTANT shall not be financially interested in any other CITY contract for this project. For the limited purposes of interpreting this section, the CONSULTANT shall be deemed a "City officer or employee", and this Section shall be interpreted in accordance with Government Code section 1090. In the event that the CONSULTANT becomes financially interested in any other CITY contract for this project, that other contract shall be void. The CONSULTANT shall indemnify and hold harmless the CITY, under Section 9 above, for any claims for damages resulting from the CONSULTANT'S violation of this Section.

12.0 **OWNERSHIP OF DOCUMENTS.** All plans and specifications, including details, computations and other documents, prepared or provided by the CONSULTANT under this Agreement shall be the property of the CITY. The CITY agrees to hold the CONSULTANT free and harmless from any claim arising from any use, other than the purpose intended, of the plans and specifications and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computation and other documents, prepared or provided by the CONSULTANT. CONSULTANT may retain a copy of all material produced under this Agreement for the purpose of documenting their participation in this project.

13.0 **COMPENSATION.**

13.1 For work performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT in accordance with the schedule of billing rates set forth in Exhibit "A", attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without prior written approval of the Water Utilities Director. CONSULTANT'S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of $305,370.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the Water Utilities Director. CONSULTANT shall obtain approval by the Water Utilities Director prior to performing any work which results in incidental expenses to CITY as set forth in Section 13.2.2.

13.2 CONSULTANT shall maintain accounting records including the following information:

13.2.1 Names and titles of employees or agents, types of work performed and times and dates of all work performed in connection with this Agreement which is billed on an hourly basis.

13.2.2 All incidental expenses including reproductions, computer printing, postage, mileage and subsistence.

13.3 CONSULTANT'S accounting records shall be made available to the Water Utilities Director for verification of billings, within a reasonable time of the Water Utilities Director's request for inspection.

13.4 CONSULTANT shall submit monthly invoices to CITY. CITY shall make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the Water Utilities Director, and based upon the following partial payment schedule:

13.4.1 Final payment shall be made to CONSULTANT upon CONSULTANT's preparation of As-Built plans for record drawings to the satisfaction of the Water Utilities Director.

14.0 **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.

If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement, in accordance with Section 13. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including the date of termination.

15.0 **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT'S duties be delegated, without the express written consent of the CITY. Any attempt to assign or delegate this Agreement without the express written consent of the CITY shall be void and of no force or effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

16.0 **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations or agreements.

17.0 **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

18.0 **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an Agreement in writing, signed by the parties hereto.

19.0 **DISPUTE RESOLUTION.**

a. Any controversy or claim arising out of or relating to this Agreement, or concerning the breach or interpretation thereof, shall be first submitted to mediation, the cost of which shall be borne equally by the parties.

b. No suit shall be brought on this contract unless all statutory claims filing requirements have been met.

20. **NOTICES.** All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

TO CITY:	**TO CONSULTANT:**
Lonnie Thibodeaux Interim Water Utilities Director 300 North Coast Highway Oceanside, CA 92054	John Harris RBF Consulting 9755 Clairemont Mesa Blvd., Suite 100 San Diego, CA 92124-1324

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur:

a. Actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or

b. Three (3) working days following the deposit in the United States mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above.

21.0 **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures:

RAW WATER PIPELINE FOR WELLS 10 & 11 - 715.855663

RBF CONSULTING, a California Corporation

By: John Vice President
Name/Title JOHN HARRIS

By: Douglas J Frost
Name/Title Douglas J Frost / Exec. V.P. & CFO

95 224 7293
Employer ID No.

CITY OF OCEANSIDE

By: _____
Barry E. Martin, Interim City Manager

APPROVED AS TO FORM:

_____
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego } ss.

On August 9, 2006 (Date) before me, Diane M. Elias (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),
personally appeared John Harris (Name(s) of Signer(s)),

☑ personally known to me
☐ proved to me on the basis of satisfactory evidence

DIANE M. ELIAS
COMM. #1501373
NOTARY PUBLIC • CALIFORNIA
SAN DIEGO COUNTY
Commission Expires July 17, 2008
LS01

to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

Diane M Elias
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: RAW WATER PIPELINE FOR WELLS 10 & 11 City of Oceanside, CA Contract Agreement

Document Date: —— Number of Pages: 12 inc. Exh. A

Signer(s) Other Than Named Above: _____

Capacity(~~ies~~) Claimed by Signer

Signer's Name: John Harris

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☑ Other: Vice President, RBF Consulting

Signer Is Representing: RBF Consulting

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On August 10, 2006 (Date) before me, Jayne E. Schommer, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared Douglas J. Frost (Name(s) of Signer(s)),

☒ personally known to me

☐ (or proved to me on the basis of satisfactory evidence)

JAYNE E. SCHOMMER
Commission # 1542001
Notary Public - California
Orange County
My Comm. Expires Jan 19, 2009

to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: City of Oceanside – Professional Services Agreement.

Document Date: Undated Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Douglas J. Frost

☐ Individual
☒ Corporate Officer — Title(s): Exec. VP & CFO
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: RBF Consulting

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
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RBF CONSULTING

SCOPE OF WORK
FOR
RAW WATER PIPELINE FOR WELL'S 10 & 11 PROJECT

CONSTRUCTION MANAGEMENT

The construction manager's duties will be to ensure that the project is constructed per the plans and specifications, and constructed on time and under budget. The duties of the construction manager shall also include, but not be limited to:

- Day-to-day monitoring and inspection of the work (including all necessary special inspections)
- Preparation of Daily Reports
- Preparation of Construction Meeting Agendas and Meeting Minutes
- Coordination with the design engineer who will be reviewing project submittals and RFI's
- Maintain Submittal, RFI, Correspondence, and Contract Change Order Logs
- Review change orders and make recommendations to City Staff
- Review progress payments and prepare recommendation to City staff
- Coordinate with the City's Water, Engineering and Traffic Divisions
- Meet once a week (minimum) with the City's representative to go over progress, anticipated work schedule and potential problems
- Submit monthly reports concerning the progress of the project, the status of any change order, a brief summary of any potential problems with a proposed course of action, and updated copies of all logs
- Coordinate Survey, Geotechnical, and any Special Inspection Services as may be required

SURVEY

Surveying Services shall provide the following:

- Provide California Coordinate System, NAD 83, Zone 6 horizontal control and NGVD 29 or NAVD 88 vertical control, depending on the specific datum requested by the City of Oceanside, as required for the completion of the project.
- Provide offsets to the pipeline at intervals not to exceed 50-feet.
- Provide all horizontal and vertical angle points with grades to the top or invert of pipe, whichever is specified on the contract documents.
- Provide staking at intervals not to exceed 25-feet for segments of the pipeline to be constructed within horizontal and or vertical curves.

GEOTECHNICAL

Geotechnical Services shall include the following with special inspection services available as may be required:

- Observation and representative field density testing and laboratory compaction testing of fill placement to construction the berm east of Foussat Road
- Observation and representative field density testing and laboratory compaction testing of raw water pipeline trench backfill
- Laboratory confirmatory testing of pipe bedding
- Observation, testing and documentation of the cuttings and geotechnical conditions during the tunneling portions of the project
- Observation and density testing of the asphalt concrete replacement

Exhibit A

RBF CONSULTING

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- Observation and density testing of the asphalt concrete replacement