ITEM NO. 10

STAFF REPORT

CITY OF OCEANSIDE

DATE: November 7, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Public Works Department

SUBJECT: **APPROVAL OF AMENDMENT 1 IN THE AMOUNT OF $14,387 TO THE PROFESSIONAL SERVICES AGREEMENT WITH TAYLOR GROUP, INC. FOR GEOTECHNICAL OBSERVATION, MATERIALS TESTING AND SPECIAL INSPECTION SERVICES FOR THE FIRE STATION 7 PROJECT**

SYNOPSIS

Staff recommends that the City Council approve Amendment 1 in the amount of $14,387 to Taylor Group, Inc., for geotechnical observation, materials testing and special inspection services for the Fire Station 7 project, for additional import evaluation, laboratory testing for bolts and masonry, special inspection (re-inspection), and earthwork calculation for construction claims; and authorize the City Manager to execute the amendment.

BACKGROUND

Fire Station 7 is being built on the north side of Mission Avenue east of Foussat Road. The station will house two engine companies, a medic company and a battalion chief.

On February 5, 2007, the City Manager administratively approved a professional services agreement with Taylor Group Incorporated of Oceanside, in the amount of $46,985 for the geotechnical observation, materials testing and special inspection services for the Fire Station 7 project.

ANALYSIS

The base PSA price with Taylor Group is $46,985. Amendment 1, for $14,387, covers additional import evaluation, laboratory testing for bolts and masonry, special inspection (re-inspection) and earthwork calculation for construction claims. A portion of the amendment is recoverable from the contractor, approximately $6,000. The base PSA price plus amendment totals $61,372.

FISCAL IMPACT

Fire Station 7 has $5.5 million budgeted from the General Fund (503.835272) and $3.5 million from a Section 108 loan guarantee from U.S. Department of Housing and Urban Development (HUD). The loan guarantee has been approved by HUD and was accepted by the Council in October of 2007. Including the HUD funds of $3.5 million, a total of $9.0 million has been budgeted for this project. Estimated expenditures are as follows:

Construction	$6,896,679
Construction Contingencies	$ 689,668
Inspection & Testing	$ 61,372
Administration Cost	$1,252,282
Total	$8,900,001

Sufficient funding is available for this project.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be provided.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATION

Staff recommends that the City Council approve Amendment 1 in the amount of $14,387 to Taylor Group, Inc., for geotechnical observation, materials testing and special inspection services for the Fire Station 7 project, for additional import evaluation, laboratory testing for bolts and masonry, special inspection (re-inspection), and earthwork calculation for construction claims; and authorize the City Manager to execute the amendment.

PREPARED BY:

Abraham M. Chen
Associate Engineer

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Joseph Arranaga, Acting Deputy Public Works Director

Scott O. Smith, City Engineer

Bob Cotton, Fire Battalion Chief

Paul Bussey, Interim Financial Services Director

CITY OF OCEANSIDE

AMENDMENT NUMBER 1 TO
PROFESSIONAL SERVICES AGREEMENT

PROJECT: AMENDMENT NUMBER 1 TO PROFESSIONAL SERVICES AGREEMENT FOR GEOTECHNICAL OBSERVATION, MATERIAL TESTING AND SPECIAL INSPECTION SERVICES FOR THE FIRE STATION NO. 7 PROJECT - 503.835272

This AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this _____ day of _____ 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Taylor Group Inc., hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement to provide the geotechnical observation, material testing and special inspection services for the new Fire Station No. 7 on the northerly side of Mission Avenue easterly of Foussat Road.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

The Professional Services Agreement shall be amended as follows:

A. SECTION 1, **SCOPE OF WORK,** IS HEREBY AMENDED TO INCLUDE THE FOLLOWING ADDITIONAL WORK:

This Amendment 1 covers additional import evaluation, laboratory testing for bolts and masonry, special inspection (re-inspection) and earthwork calculation for construction claims.

A detailed description of the additional scope of services is attached as Exhibit "A" incorporated herein by reference.

B. SECTION 13, **COMPENSATION**, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED $14,387 FOR THE ADDITIONAL WORK SET FORTH IN SECTION **A,** ABOVE.

The total amount of compensation for the work required by the Professional Services Agreement, including this amendment, shall not exceed $61,372.

C. ALL OTHER TERMS, CONDITIONS, COVENANTS AND PROVISIONS OF THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ORIGINAL AGREEMENT AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.

IN WITNESS THEREOF of parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do herein agree to the performance of this Amendment.

CITY OF OCEANSIDE
CITY

BY: _____
PETER WEISS
TITLE: CITY MANAGER

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY

TAYLOR GROUP INCORPORATED

BY: _____
NAME: LARRY TAYLOR
TITLE: PRESIDENT

BY: Vicki Taylor
NAME: VICKI TAYLOR
TITLE: Secretary

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

EXHIBIT A

A detailed description of additional work.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of SAN DIEGO } ss.

On OCT 15, 2007, before me, JOEY LUDWICZAK, NOTARY PUBLIC
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared LARRY TAYLOR AND VICKI TAYLOR,
Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence 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.

JOEY LUDWICZAK
Commission # 1485946
Notary Public - California
San Diego County
My Comm. Expires Apr 26, 2008

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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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
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
Top of thumb here

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" EXHIBIT "A"

TAYLOR GROUP, INC.
GEOSCIENCE & ENGINEERING CONSULTANTS

719 Pier View Way
Oceanside
California 92054
tel: 760.721.9990
fax: 760.721.9991
www.visitTGI.com

October 10, 2007
TGI Project No. G07.00446

Abraham M. Chen
City of Oceanside - Department of Public Works
300 N. Coast Highway
Oceanside, CA 92054

Subject: **Professional Services Agreement - Amendment No. 1**
Geotechnical and Materials Testing and Inspection
Fire Station No. 7, Oceanside, California

Reference: *"Proposal for Geotechnical Observation and Testing, Fire Station Number 7, City of Oceanside Project No. 503.835272,"* prepared by Taylor Group, Inc., Proposal No. P06.1243, dated November 30, 2006.

Dear Mr. Chen:

As we discussed, Taylor Group, Inc., (TGI) has performed additional services on the subject project. The additional services were performed as requested by the City of Oceanside. Additional services include evaluating, sampling and testing of soil from several import sites; additional laboratory testing; special inspection re-inspections; and evaluations, calculations and coordination regarding the earthwork quantities.

The unanticipated laboratory tests included tensile and hardness tests on five bolt/nut/washer assemblies (15 tests), and masonry grout, mortar and prism tests. As discussed in the referenced proposal, it was anticipated that these tests would not be required.

The re-inspection items included welding special inspection and ultrasonic testing re-tests. The additional welding special inspection was performed on July 26, 27, 31, and August 1, 2, and 16 2007. Re-inspection was performed for half of the day on each of the above days except for July 31, and August 16 in which the entire day consisted of re-inspection work. The ultrasonic re-testing was performed on July 27, and August 16, and consisted of 4 hours each day. At least one more day of additional welding re-inspections and ultrasonic re-testing is anticipated.

Line item details of the additional import evaluation, laboratory testing services, and re-inspection discussed herein are presented in the Task Billing Details of our invoices. A summary of the additional services and their associated cost is presented in the table below.

Additional Services		**Cost**
Import Evaluation		$3321
Laboratory Testing for Bolts and Masonry		$2256
Special Inspection Re-Inspection		$3360
Earthwork Quantity Calculations and Evaluations (estimate)		$2450
Contingency		$3000
	Total	*$14,387*

Our professional services agreement with the City includes a contract amount of $46,985. This amount was a time and materials cost estimate based on the information available at the time our proposal was submitted. The total cost of the additional services performed is approximately **$14,387**. Therefore, we request that our total budget be increased to **$61,372**.

We appreciate the opportunity to provide services to the City of Oceanside. Should you have any questions regarding this change order, please feel free to call.

Respectfully submitted,

TAYLOR GROUP, INC.

Erick J. Aldrich, RCE, GE
Senior Engineer

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 5th day of February, 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Taylor Group Inc., 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 project is more particularly described as follows: Provide geotechnical observation, materials testing and special inspection services for Fire Station Number 7, as detailed in the scope of services in Attachment 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 City Engineer 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 City Engineer, 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 City Engineer may delegate authority in connection with this Agreement to the City Engineer's designees. For the purposes of directing the CONSULTANT'S performance in accordance with this Agreement, the City Engineer delegates authority to Jeanette Peck.

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 Design, prepare and submit to the City Engineer, plans and specifications for the construction of the project as described in the Scope of Work, and in the time and manner set forth in this Agreement.

1.1.5 Prepare and submit to the City Engineer, concurrently with the design plans, the following:

a. A written estimate of probable construction costs.

b. A written list of submittals, which the construction contractor will be required to provide during the construction phase of the project.

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

1.1.7 Provide office and field assistance to the City during the construction period upon request by City Engineer to include the services listed below:

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

b. Review and comment on laboratory, shop and mill test reports on materials and equipment.

c. Prepare needed reports and notices.

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

e. Attend meetings with the City Engineer or his designees.

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 Provide sample of title block for the plans and standard form Public Works Construction Contract Documents to be used with the General Provisions (Specifications).

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

1.2.5 Provide all legal advertising mailings and postings required.

1.2.6 Duplicate all final plans and specifications.

1.2.7 Provide overall project management.

2.0 **TIMING REQUIREMENTS**

2.1 Time is of the essence in the performance of work under this Agreement. 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.

2.1.1 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 City Engineer. 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 City Engineer. CONSULTANT shall be sole 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 City Engineer.

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 purchases 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, 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 tortious 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 City Engineer 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 intende3d, 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 City Engineer. CONSULTANT'S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of $ 46,985.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Engineer. CONSULTANT shall obtain approval by the City Engineer 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 City Engineer for verification of billings, within a reasonable time of the City Engineer'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 City engineer.

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:**
City of Oceanside City Engineer 300 North Coast Highway Oceanside, CA 92054	Taylor Group, Inc. Larry Taylor 719 Pier View Way Oceanside, CA 92054

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:

Taylor Group, Inc.

By: _____
Larry Taylor/President

By: Vicki Taylor
Name/Title
Vicki Taylor/Secretary

33-0842004
Employer ID No.

CITY OF OCEANSIDE

By: Peter Weiss
~~Barry E. Martin~~, City Manager
Peter A. Weiss, Interim

APPROVED AS TO FORM:

_____, DCA
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego } ss.

On Feb. 5, 2007 (Date) before me, Eric Cathey, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Larry Taylor and Vicki Taylor (Name(s) of Signer(s))

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

ERIC CATHEY
Commission # 1604611
Notary Public - California
San Diego County
My Comm. Expires Sep 5, 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.

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: Professional Services Agreement

Document Date: _____ Number of Pages: 16

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

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
Top of thumb here

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ATTACHMENT A

SCOPE OF SERVICES

The project will consist of overexcavation and grading for the building, driveway, and parking areas. Grading will include excavation, importing of soil, and fill placement to achieve final grades. The project will also include underground utilities including a sewer line, plumbing, mechanical, irrigation piping, and electrical utilities. Fill placement will require representative field density testing and confirmatory laboratory compaction testing, performed in accordance with the appropriate ASTM standards. In addition, material selection observation, sampling, and testing will be required for import soil.

Materials testing and inspection services will be required for the reinforced concrete, structural steel, and structural masonry. Inspection and testing services will be performed in general accordance with the Uniform Building Code (UBC).

Descriptions of the scope of services are presented in the following sections.

Engineering Review of Geotechnical Report

Review of the project preliminary geotechnical report will be required by the project geotechnical engineer. The assumptions and recommendations provided in the project geotechnical report(s) will be reviewed, and additional recommendations or changes will be provided, if necessary. Additional recommendations or items of concern will be discussed with the City prior to implementation. Based on our limited preliminary review of the available project preliminary geotechnical report, no changes or additions are anticipated at this time.

Geotechnical Observations and Testing

Based on our understanding of the project, we anticipate that the grading phase will require a full-time to part-time field technician, limited part-time observation and coordination by a field engineer and/or a geologist, laboratory testing support, and limited part-time oversight by a geotechnical engineer. Field samples will be delivered to our Oceanside laboratory for testing as needed. Testing data (compaction curves) will meet the general requirements of ASTM D 1557 and usually require a turn around time of 24 hours. The following items will be performed by TGI during the grading portion of the proposed project:

1. Observation of the overexcavation for the building and pavement areas, including geotechnical approval of the bottom of the excavation prior to placing fill.

2. Field and laboratory testing and observations during fill placement and grading operations to construct the building pad and site grades. Field testing will include relative compaction testing during fill placement. Field technician services will generally be full-time during fill placement.
3. Observations and testing of utility backfill. Utility backfill compaction testing and observation is usually required on a part-time basis.
4. Field compaction testing of subgrade and aggregate base for the driveway and parking areas.
5. Laboratory testing of soil is anticipated to include maximum density tests. Import soil will require maximum density tests and possibly index tests such as gradation and expansion index.
6. Laboratory testing of aggregate base is anticipated to include maximum density tests, and Class 2 Base conformance tests including gradation.
7. TGI will be responsible for observing that the recommendations of the geotechnical report are implemented during construction. Deficiencies will be reported to the city project manager verbally or in writing with submittals of daily reports and/or field memorandum.

Asphalt Concrete Testing and Observations

Field compaction testing and observation of asphalt concrete for the widening of Mission Avenue will be required. We have assumed that asphalt laboratory testing will not be required.

Materials Testing and Inspection Services

Special inspection will be required for the reinforced concrete, structural steel, and structural masonry. A detailed construction schedule was not available at this time. Therefore, the amount of time required for these inspections has been estimated based on our judgement and experience on other projects. Our estimates of the hours required for inspection are provided in Table 1.

Reinforced concrete testing and inspection will generally include inspection of steel reinforcement, observation and sampling of freshly mixed concrete, casting of concrete compression test cylinders, and laboratory testing of reinforced concrete. In accordance with the project specifications, five concrete cylinders are required for every 100 cubic yards of concrete placed. We have estimated the amount of cylinders needed and the special inspection hours based on a concrete slab quantity of 6,450 square feet of 7-inch thick slab, 9,600 square feet of 5-inch thick slab, and 1,124 linear feet of curb, and our experience on similar projects. Compression tests will be performed on the concrete at

the requested time intervals, typically at 7 and 28 days. The results will be provided to the City when available.

Structural steel inspection will generally be required on a part-time basis and will include the inspection of welding, frame connections, and high strength bolt installation. We have estimated a total of 10 days of special inspection for structural steel.

Masonry construction will generally require full-time special inspection. We have assumed that the masonry construction for the generator and fuel storage building will require approximately 2 days, and the trash enclosure area will require another approximately 2 days.

Based on our review of the project structural plans and specifications, and our experience on similar projects, we anticipate that sampling and testing of reinforcing steel, high strength bolts, masonry block, grout and mortar will not be required. If sampling and laboratory testing of these materials is needed, TGI can also provide these services. If requested, these services will be provided on a time and materials basis, but are not included in our fee estimate included herein.

Geotechnical Engineering and Project Management

TGI anticipates that the construction-phase services might include some engineering and project management tasks relating to geotechnical and materials issues. This is anticipated to include participation in a pre-construction meeting, responding to RFI's, and providing engineering analyses, if necessary.

At the conclusion of grading, TGI should prepare an as-graded report. The report will summarize our field and laboratory testing, document the grading performed at the site, and may present additional recommendations for future site maintenance, if necessary. The report will be based upon daily and weekly records and documentation, and may include maps illustrating geotechnical sampling and testing locations.

TGI will provide services that are required by the City of Oceanside and that are generally consistent with the industry standard of care. Site visits will be scheduled to efficiently perform the required services in a cost effective manner. For example, TGI will be able to more effectively monitor the progress of the construction operations due to the close proximity of the project to our office, which can reduce unnecessary site visits.

FEE PROPOSAL

The fee proposal is based on a project construction schedule of February 19, 2007 to April 15, 2008. However, TGI's level of effort and fees for the construction phase services will depend largely upon the overall scope of work required for the project and the contractor's schedule and progress. We propose to provide the construction phase services on a time-and-materials

basis in accordance with the fee schedule included as Attachment A of this proposal. TGI will provide progress billings to the client on a monthly basis. The progress billings will indicate the current billing amount, total billed to the project, percent of budget used, and percent of budget remaining.

Based on the assumptions presented herein, a preliminary estimate of fees for construction phase services has been prepared and is included on Table 1. Based on the assumed time and items presented in Table 1, our estimated fee is $46,985.

ASSUMPTIONS, LIMITATIONS AND EXCLUSIONS

The proposed scope and corresponding fees is estimated based on TGI's experience on similar projects. Unforeseen circumstances, such as significant changes to the proposed project scheme or the discovery of subsurface conditions that significantly complicate the progress of construction, may occur. Our fee proposal has included the following assumptions:

1. Costs for coordination are based on a typical level of effort for this type of project. It is not possible for TGI to fully anticipate the level of coordination that may be required based on the currently available information.
2. Our services will be billed on a time-and-material basis.
3. Rates for field personnel covered by State Labor Code Requirements are based on State prevailing wage determinations and are subject to their revision.
4. Additional costs (e.g., standby time for field equipment and personnel) resulting from inclement weather, scheduling delays, or other factors beyond TGI's control are not included.
5. Inspection services and laboratory tests not specifically included in our scope of services or on Table 1 are not included in the cost estimate presented herein.

Table 1. Cost Estimate for Geotechnical Testing and Observations
Fire Station Number 7, Oceanside, CA

Task/Cost Element	Units	Qty	Unit Rate* ($)	Amount
Field Observation/Testing				
Labor				
Technician*	hr	300	70.00	$ 21,000.00
Geotechnical Engineer/ Engineering Geologist	hr	20	115.00	$ 2,300.00
Principal Engineer	hr	4	150.00	$ 600.00
Other Direct Costs				
Nuclear Density Gage (fee waived)	hr	300	N/C	$ -
Field Vehicle (Technician)	1/2 day	75	24.00	$ 1,800.00
			Subtotal:	***$ 25,700.00***
Laboratory Testing				
Compaction Test - Soil and Import	each	4	135.00	$ 540.00
Gradation - Import	each	1	85.00	$ 85.00
Expansion Index - Import	each	1	120.00	$ 120.00
Compaction Test - Aggregate Base	each	2	135.00	$ 270.00
Gradation - Aggregate Base	each	2	85.00	$ 170.00
Concrete Cyl. Sample and Compression Test	each	50	23.00	$ 1,150.00
			Subtotal:	***$ 2,335.00***
Special Inspection				
Labor				
Concrete Special Inspector	hr	80	70.00	$ 5,600.00
Structural Steel Inspector	hr	80	70.00	$ 5,600.00
Masonry Special Inspector	hr	40	70.00	$ 2,800.00
			Subtotal:	***$ 14,000.00***
Analyses, Engineering Review, Project Management, and Meetings				
Labor				
Geotechnical Engineer/Engineering Geologist	hr	30	115.00	$ 3,450.00
Principal Engineer	hr	2	150.00	$ 300.00
As-Graded Report	lump sum	1	1,200.00	$ 1,200.00
			Subtotal:	***$ 4,950.00***

ESTIMATED TOTAL FEES: $ 46,985.00

NOTES

*Rates for field technicians and special inspectors are based on Prevailing Wage Determination made by the State of California, Director of Industrial Relations on a semiannual basis and are subject to their revision.

For field personnel, the above hourly rates are for normal weekday construction hours. Overtime rates of 1.5 times the regular rates will be charged for work performed outside of normal 8 hour construction days and all day on Saturdays and Sundays. Work performed on holidays or in excess of 12 hours in one day will be charged at 2 times the regular rates. Rates for technicians are based on a 4-hour minimum. Rates for inspectors are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours.

ATTACHMENT A
FEE SCHEDULE FOR CONSTRUCTION PHASE GEOTECHNICAL SERVICES

EFFECTIVE JANUARY 1, 2004

Taylor Group, Inc. (TGI) will bill for professional, technical and support services time directly related to a project at the following rates. There are no charges for ordinary secretarial services, office management, accounting, maintenance or other activities not directly related to a project.

FIELD SERVICES	RATE
Hourly Rate for Technician and Special Inspector (1)	$ 70.00
Hourly Rate for Professionals	See rates below

RELATED TESTING	RATE (PER TEST)
Maximum Density (ASTM D1557)	$ 135.00
Single Point Max. Density (ASTM D 1557)	$ 55.00
Expansion Index (ASTM D 4829)	$ 120.00
Particle Size Analysis (ASTH D 422)	$ 75.00
Corrosion Potential (Caltrans)	$ 115.00
Sand Equivalent (Caltrans)	$ 75.00

OTHER PROFESSIONAL SERVICES (1)	RATE (PER HOUR)
Principal Engineer/Geologist	$ 150.00
Project Manager/Senior Engineer	$ 115.00
Certified Engineering Geologist	$ 115.00
Senior Staff Professional	$ 100.00
Staff Professional (2)	$ 80.00

(1) 4-hour minimum and hourly thereafter. Overtime will be charged for these personnel classifications at 130% of the listed rate. Overtime is based on the California State Labor Code Requirements, which in general is time charged to a project in excess of 8 hours per day, time worked on weekends, holidays, or night shifts. Overtime exceeding 12 hours per day will be charged for these personnel classifications at 170% of the listed rate

PROJECT-RELATED EXPENSES

Subcontractor costs (such as drilling subcontractors, laboratory fees, etc.) and other direct project related expenses will be billed at cost plus 15 percent.

Field Vehicle for Technician billed at $24.00 per half day (4 hr).

Mileage for project-related travel will be billed at $0.40 per mile.

In-house photocopy/reproduction will be billed at $0.15 per page.

GENERAL CONDITIONS

TGI warrants that its services are performed, within the limits prescribed by our clients, in accordance with generally accepted standards of care and diligence normally practiced by recognized consulting firms performing services of a similar nature. No other warranty, either express or implied, is included or intended in TGI's proposals, contracts or reports. TGI will not be liable for any loss, damage or liability to persons or property arising out of performance of its services, other than for professional errors and omissions, beyond the stated limits, coverage or conditions of its insurance. For any damage resulting from any error, omission or other professional negligence, our liability will be limited to $50,000 or TGI's total fee for the services rendered on the project, whichever is greater. In the event that the Client does not wish to limit TGI's professional liability to this sum, the Client should discuss higher limits, and the charges involved, with TGI.