

STAFF REPORT



ITEM NO. 7 CITY OF OCEANSIDE

DATE: December 2, 2009

TO: Honorable Mayor and City Council Members

FROM: Department of Harbor and Beaches

SUBJECT: **AMENDMENT 1 IN THE AMOUNT OF \$46,802 TO THE PROFESSIONAL SERVICES AGREEMENT FOR ADDITIONAL SERVICES FOR THE DESIGN OF THE OCEANSIDE HARBOR AQUATICS CENTER PROJECT AND THE HARBOR PARKING LOT 11B RESTROOM REPLACEMENT PROJECT**

SYNOPSIS

Staff recommends that the City Council approve Amendment 1 in the amount of \$46,802 to a professional services agreement with Safdie Rabines Architects, Inc., of San Diego, for storm water discharge requirement changes and the re-bidding of the Aquatics Center; Oceanside Harbor Aquatics Center project and the Harbor Parking Lot 11B Restroom Replacement project; and authorize the City Manager to execute the agreement.

BACKGROUND

On June 16, 2004, the City Council adopted the FY 2004-05 Capital Improvement Program (CIP) budget that included appropriations of \$3,000,000 for the Oceanside Harbor Community Facilities project and \$280,000 for the Harbor Parking Lot 11B Restroom Replacement project.

On September 15, 2004, City Council approved a professional services agreement with Safdie Rabines Architects, Inc., for design of the Harbor Aquatics Center.

On October 6, 2006, the Harbor Board adopted a resolution approving the Development Plan (D-2-06) and Regular Coastal Permit (RC-3-06) for the construction of the Harbor Aquatics Center and replacement of an existing public restroom building. The Regular Coastal Permit was not appealed and became effective within 30 days. The Regular Coastal Permit (RC-3-06) and Development Plan (D-2-06) have since expired.

On October 10, 2007, the Harbor Board approved the plans and specifications and authorized the City Engineer to call for bids.

On May 8, 2008, bids were publicly opened with a construction estimate of \$3.6 Million. Due to bid results the City chose to reject the bids. In the spring of 2009 staff was

tasked to separate the combined project package into two separate projects and two separate bid packages.

In April 2009, the Harbor Aquatics Center and Harbor Lot 11B project was submitted to the Planning Department for a Coastal Permit and Development. The project has been deemed complete and is scheduled for Harbor Board consideration on December 2, 2009.

ANALYSIS

The Harbor Aquatics Center and the Harbor Lot 11B Restroom were originally assembled into one bid package. The plans for both facilities as well as the specifications were combined and integrated as one. The combined bid package prevented staff from proceeding with the development of either facility due to this scenario as well as the bid amounts received for the projects. In order to complete the Harbor Aquatics Center and/or the Harbor Lot 11B Restrooms staff has determined that splitting the bid package into two separate bid packages would allow for a more effective bidding situation. In order to split the plan set and specifications, extra work by architect and all disciplines is required. In addition recent changes in the storm water discharge regulations required revisions to the plans.

A more detailed description of the Harbor Aquatics Center is construction of a 6,773-square-foot, two-story community center structure, a separate freestanding 5,778-square-foot storage facility, on-site parking for 33 vehicles, and landscaping improvements. The community center structure includes 1,363 square feet of meeting room and special event space, 1,145 square feet of office and restroom space, 2,513 square feet of outrigger canoe storage space and a 1,750-square-foot balcony.

A public picnic and landscaped shade area will provide a public art opportunity with the advice and assistance of the Oceanside Arts Commission, which has recommended this project as suitable for incorporating public art. Staff will work with the Arts Commission to develop a public art proposal for approval by the Harbor Board.

Because the Regular Coastal Permit and Development Plan for the Harbor Aquatics Center and Harbor Lot 11B Restroom has expired, a new Coastal Permit and Development Plan is scheduled for consideration by the Harbor Board of Director, on December 2, 2009. Staff anticipates Harbor Board to approve plans and specifications and authorize the City Engineer to call for bids at the beginning of 2010.

FISCAL IMPACT

Amendment 1 to the professional services agreement is \$46,802. Funding in the Oceanside Harbor Community Facility Project account (910543700751) totals \$2,855,801 in the FY 2009-10 CIP budget. Sufficient funds are available.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

On April 22, 2004, the Harbor and Beaches Advisory Committee reviewed the Oceanside Harbor projects, including the Oceanside Harbor Community Facility and the Lot 11B restroom as a part of their overall review of the Harbor Department CIP budget.

CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATION

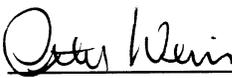
Staff recommends that the City Council approve Amendment 1 in the amount of \$46,802 to a professional services agreement with Safdie Rabines Architects, Inc., of San Diego, for storm water discharge requirement changes and the re-bidding of the Aquatics Center; Oceanside Harbor Aquatics Center project and the Harbor Parking Lot 11B Restroom Replacement project; and authorize the City Manager to execute the agreement.

PREPARED BY:

SUBMITTED BY:



Nathan Mertz
Parks Development Manager
CIP Manager 1



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

George Buell, Development Services Director

Scott O. Smith, City Engineer

Margery M. Pierce, Neighborhood Services Director

Teri Ferro, Financial Services Director









Attachments:
Amendment 1

**CITY OF OCEANSIDE
AMENDMENT 1 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: Harbor Community Facilities
Harbor Aquatics Center and Harbor Lot 11B Restroom
751.875437 – 751.835276**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered into this 2nd day of December, 2009, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and SAFDIE RABINES ARCHITECTS, INC., hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS, CITY and CONSULTANT are the parties to that certain Professional Services Agreement dated September 15, 2004, hereinafter referred to as the "Agreement", wherein Consultant agreed to provide certain services to the City as set forth therein;

WHEREAS, the Agreement provided for CONSULTANT to provide all professional architectural, engineering and environmental professional services to complete the conceptual and final architectural design and environmental documentation for development of the Harbor Community Facility and the Harbor Lot 11B Restroom;

WHEREAS, the parties now wish to complete modifications to plans and specifications for final design and bidding process; and

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Section 1.0, Scope of Work, and Section 13.0. Compensation.

AMENDMENT

NOW, THEREFORE, as set forth herein, the parties hereto do mutually agree that the Agreement shall be amended as follows:

1. Section 1.0, **Scope of Work**, is hereby amended to add the following: "The project includes modifications to final design and engineering to the Harbor Aquatics Center and Harbor Lot 11B Restroom Replacement Projects described in more detail in Exhibit "A" (Safdie Rabines Architects, Inc. letter dated October

**Harbor Community Facilities
Harbor Aquatics Center and Harbor Lot 11B Restroom
751.875437 – 751.835276**

29, 2009), attached hereto.”

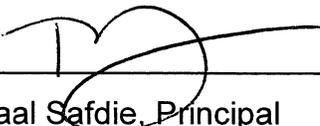
2. Section 13.0 **COMPENSATION**, is hereby amended to add the following language to subsection 13.1: CONSULTANT’s compensation for additional work performed in accordance with this Amendment, shall not exceed \$46,802.00. Said additional compensation shall be for performing additional professional services as described in Exhibit “A”, attached.
3. Except as expressly set forth in this Amendment, the Agreement shall remain in full force and effect and is hereby ratified and reaffirmed.

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

IN WITNESS WHEREOF the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the Agreement, including this Amendment and have caused this Amendment to be executed by setting hereunto their signatures this 2nd day of December, 2009.

SAFDIE RABINES ARCHITECTS, INC.

CITY OF OCEANSIDE

By: 

Taal Safdie, Principal

By: _____
Peter A. Weiss, City Manager

By: _____

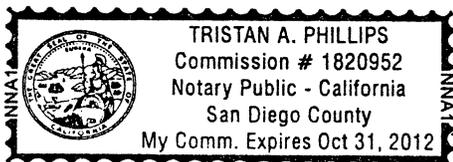
APPROVED AS TO FORM:

68-0493520
Employer ID No.



City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On Nov. 2, 2009 before me, Tristan A. Phillips, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Taal Safdie
Name(s) of Signer(s)



who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

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: _____ Signer's Name: _____

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual Partner — Limited General Individual Partner — Limited General

Attorney in Fact Attorney in Fact Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

EXHIBIT "A"

SAFDIE RABINES ARCHITECTS

1101 Washington Place, San Diego, California 92103-1726
p. 619.297.6153 f. 619.299.6072 www.safdie rabines.com

October 29, 2009

Nathan Mertz
Parks Development Manager
Engineering Division
City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054

Hi Nathan,

We have evaluated the work associated with the following tasks and have included additional service fees for the following items:

A. Separating the drawings and specifications into two separate packages for re-bid

1. Two packages: Restroom Building and Aquatics Center/Storage Facility = \$16,460.00
 - a. Architecture (based on 55 hours)
 - b. MEP
 - c. Civil
 - d. Structural

B. Alternate Deducts

1. Prepare Alternate Deducts for Re-bid = \$3,058.00
 - a. Architecture (based on 10 hours)
 - b. Landscape
 - c. Structural
2. Alternate Deduct Incorporation into Contract Documents for Re-bid = To be determined if alternates are selected after bidding.

C. Storm Water Revisions and O&M Plan

1. Incorporate storm water modifications into Drawings = \$14,924.00
 - a. Architecture (based on 16 hours)
 - b. Landscape
 - c. Plumbing
 - d. Civil

D. Irrigation Modifications

1. Incorporate irrigation modifications requested by Oceanside into the Contract Documents = \$475.00
 - a. Landscape

E. Bid Support

1. Restroom Building = \$2,725.00
 - a. Architecture (based on 10 hours)
 - e. MEP
 - f. Civil
 - b. Structural
2. Community Center & Storage Facility = \$3,660.00
 - a. Architecture (based on 15 hours)
 - g. Landscape

- h. MEP
- i. Civil
- b. Structural

F. Project Management and Meetings

- 1. Architectural Services = \$5,500.00

G. Alternate Deduct Incorporation into Documents

- 1. To be submitted at a later date when scope of work is determined by Client

H. Construction Administration Fees

- 1. To be submitted at a later date

The estimated fees for above items A-E are based on an hourly, not to exceed basis. If the time and fees are exceeded the design team reserves the right to request Additional Service fees to complete the work. If the fees are acceptable please issue a Notice to Proceed based on this scope of work and associated fees. Thank you for your consideration of our request and let us know if there are nay questions.

Susan Richard

OCEANSIDE HARBOR AQUATICS CENTER AND HARBOR PARKING LOT 11B RESTROOM REPLACEMENT - October 29, 2009

Additional Service Item	Salehi & Salehi	Burkett & Wong- Civil	Burkett & Wong- Structural	Marcie Harris	Safdie Rabines Architects	Total Additional Service Fees
Separating the Restroom Building from the Aquatics Center for Rebid- Drawings & Specifications	\$3,800	\$3,325	\$2,185	\$0	\$7,150	\$16,460
Prepare Alternates Deducts for Re-bid	\$0	\$0	\$1,140	\$618	\$1,300	\$3,058
SWMPP- Incorporate storm water revisions into documents. Produce O&M Plan	\$333	\$10,992	\$0	\$1,520	\$2,080	\$14,924
Incorporate irrigation revisions into drawings and specs	\$0	\$0	\$0	\$475	\$0	\$475
Bid Support- Restrooms	\$475	\$475	\$475	\$0	\$1,300	\$2,725
Bid Support- Community Center & Storage Facility	\$475	\$475	\$475	\$285	\$1,950	\$3,660
Project Management and Meetings	\$0	\$0	\$0	\$0	\$5,500	\$5,500
Value Engineering Incorporation into Contract Documents for Re-bid	tbd	tbd	tbd	tbd	tbd	tbd
Construction Administration Fees	tbd	tbd	tbd	tbd	tbd	tbd
Total Additional Service Fees	\$5,083	\$15,267	\$4,275	\$2,898	\$19,280	\$46,802

**Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276**

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 15th day of September 2004, by and between the OCEANSIDE SMALL CRAFT HARBOR DISTRICT, a municipal corporation, hereinafter designated as "CITY", and Safdie Rabines Architects, 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 all professional architectural, engineering and environmental professional services to complete the conceptual and final architectural design and environmental documentation for development of the Harbor Community Facility and the Harbor Lot 11B Restroom.

A more detailed scope of work is attached hereto as Exhibit "A" and made a part hereof.

- 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:

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- 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 the assigned Senior Civil Engineer.
- 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 bidding and construction periods upon request by City Engineer to include the services listed below:
 - a. Provide consultation and advice to the City during construction of the project.

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Harbor Lot 11B Restroom Replacement (751) 835276

- b. Review and comment on material submittals and shop drawings submitted by the contractor, subcontractors and suppliers for compliance with the construction contract documents.
- c. Review and comment on laboratory, shop and mill test reports on materials.
- d. Prepare design changes and clarifications to the plans and specifications.
- e. Provide periodic visits to the site to monitor construction.
- f. Attend meetings with the City Engineer or his^{her} 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 all necessary construction surveying and testing required, including Geotechnical Engineering services if required during construction.
- 1.2.8 Provide overall project management.
- 1.2.9 Provide coordination of all inquiries from prospective bidders during the bidding period.

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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 2.4. 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 Preliminary Design CONSULTANT shall prepare and deliver a copy of the preliminary design plans to the City Engineer within 120 calendar days of the execution of this Agreement. No work shall be performed by CONSULTANT beyond the preliminary design stage until the City engineer has given written approval of the preliminary design and authorization to perform final design.
- 2.3 Final Design CONSULTANT shall prepare and deliver a copy of the 100% design plans to the City Engineer within 120 calendar days of the ~~execution of this Agreement.~~ *completion of the Preliminary Design.*
- 2.4 CONSULTANT shall submit all requests for extensions of time for performance in writing to the City engineer 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 City Engineer shall review all such requests and may grant reasonable time extensions for unforeseeable delays, which are beyond CONSULTANT'S control.
- 2.5 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.

All plans shall be ink drawn on standard "D" size mylar sheets available from the CITY at no cost to CONSULTANT. Contract specifications shall conform to the CITY'S specification procedures and the format of the CITY'S standard form Contract Documents for Public Works Construction.

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- 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)

**Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276**

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

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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*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

Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276

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,

Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276

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 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 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

Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276

set forth in Exhibit "B", 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 \$330,700.

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, and based upon the following partial payment schedule:
- 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.

Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276

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

- 20.0 **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:

**Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276**

TO CITY:

City of Oceanside
City Engineer
300 North Coast Highway
Oceanside, CA 92054

TO CONSULTANT:

Safdie Rabines Architects, Inc.
Principal in Charge
1101 Washington Place
San Diego, CA 92103-1726

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:

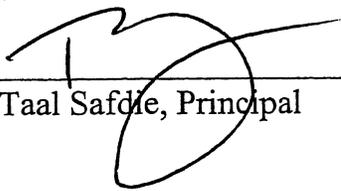
- a. Actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or
- b. Three (3) working days following the deposit in the United States mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party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

**Harbor Community Facilities (751) 875437
Harbor Lot 11B Restroom Replacement (751) 835276**

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:

SADIE RABINES ARCHITECTS

By: 

Taal Safdie, Principal

By: _____
Name/Title

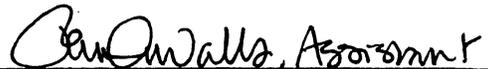
68-0493520
Employer ID No.

CITY OF OCEANSIDE

By: 

Steven R. Jepsen, City Manager

APPROVED AS TO FORM:



City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

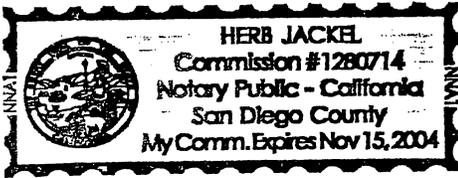
State of California

County of SAN DIEGO } ss.

On AUGUST 30 2004 before me, HERB JACKEL
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared TAAL SAFDIE, PRINCIPAL
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.

WITNESS my hand and official seal

Herb Jackel
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: _____

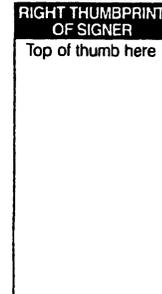
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

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

Signer Is Representing: _____



Oceanside Harbor Community Facilities Safdie Rabines Architects

Exhibit A

Scope of Services

Community Facility Building Concept – The Oceanside Harbor Community Facility will be developed to be visually attractive and establish an exterior architectural theme for future civic buildings at Oceanside Harbor. The total project budget, including all costs, shall not exceed \$3,000,000. The building will provide the following uses:

- Two community meeting rooms
- Office space for junior lifeguard and aquatics program
- One small kitchen area for serving catered or prepackaged food
- One full kitchen for food preparation and service
- Outrigger canoe facility
- Men's and women's restrooms accessible from the community room(s)
- Unisex restroom accessible from the outrigger canoe storage area
- Observation deck
- Separate enclosed maintenance work facility for staff and equipment
- Parking area for Harbor maintenance staff and public use
- Site improvement including walkways, landscaping, and drainage
- Utility services

Restroom Building Concept – The Harbor Parking Lot 11B Restroom Replacement will be architecturally consistent with the nearby Community Facility. The old restroom building measures 16 x 41.5 feet, and it will be completely demolished with the possible exception of some exterior block walls and the concrete slab. The new restroom will provide a minimum of four toilets and two sinks on the women's side and two toilets, two urinals, and two sinks on the men's side. Fixtures will be institutional-grade stainless steel. The existing food service use in the existing building will not be continued and any available extra floor space not required for public restroom use will be for maintenance storage. No existing beach sand area may be converted into building or hardscape area, and the new building may not decrease visual site lines from the parking lot towards the beach. The total project budget, including all costs, shall not exceed \$280,000.

Preliminary Design – Safdie Rabines Architects (SRA) will prepare a site plan in sufficient detail to consider:

- Layout area and arrangement of building footprints
- Parking lot, entrance/exit, pedestrian routes
- Utility service points of connection
- Identification of landscaping area

SRA will plan the interior room sizes and layout to verify that the planned uses can be accommodated with the project budget.

SRA will prepare conceptual elevation drawing for early approval of the buildings' architectural appearance.

Upon approval of the conceptual building elevations, SRA will prepare color renderings of community facility building and a model of the entire community facility complex. A color rendering and model of the Lot 11B restroom building is not required.

SRA will prepare or contract for the following technical studies that are necessary for the City Planning Dept to complete a CEQA review of the project and process a coastal permit:

- Parking and traffic circulation in the area of the project site, the boat launch ramp, and the parking lot 11
- Storm water mitigation plan
- Visual study focused on demonstrating that view corridors are maintained around the community building
- Geotechnical report to support foundation design calculations
- Hazardous materials (Phase 1 site assessment)

SRA will provide a detailed construction cost estimate to verifying that the project is correctly scaled to fit within the City's budget.

SRA will be available for one public presentation to obtain design approval of the Oceanside Harbor Community Facility.

Final Design – SRA will prepare complete and plans and specifications for public bid. SRA will submit all necessary calculations and ICBO approval numbers for the building permit application. SRA will submit the plans for approval of the County for the food service use. SRA will respond to all plan check corrections. Upon final approval of the plans, SRA will provide the City one D-size mylar copy.

The bid specifications will include the complete material specification in AIA or similar format. The City will provide the construction administration portion of the bid specifications, and assemble the bid specifications into a complete document.

Construction Support – SRA will respond to the City construction manager's requests for clarifications about the design intent from prospective bidders. SRA will assist the City construction manager in producing plan corrections and addendums during the bid process.

SRA will review the contractor material submittals covering the buildings and furnishings. SRA will respond to contractor requests for information when the City contraction manager requires SRA's technical guidance on questions arising during construction. SRA will draft changes construction plan revisions from the contractor and the City construction manager onto the City's as-built mylar drawings.

Oceanside Harbor Community Facilities
Safdie Rabines Architects

Exhibit B

FEE SCHEDULE- August 26, 2004

SERVICES- Discretionary Permit	Total
Architectural - SRA	\$41,000
Landscape - Marcie Turrent	\$5,900
Civil - Burkett & Wong	\$17,000
Structural - Burkett & Wong	\$8,500
MEP - Salehi & Salehi	\$5,000
Subtotal	\$77,400

SERVICES - Construction Permit	Total
Architectural - SRA	\$123,000
Landscape - Marcie Turrent	\$11,800
Civil - Burkett & Wong	\$26,000
Structural - Burkett & Wong	\$25,000
MEP - Salehi & Salehi	\$21,150
Subtotal	\$206,950

Total for Safdie Rabines **\$284,350**

ADDITIONAL SERVICES	Total
Models and Renderings - SRA (Not to Exceed)	\$3,000
Geotechnical - Southland Geotechnical	\$15,250
Hazardous Materials Assessment - Hargis & Associates	\$3,500
Independent Cost Estimate - Hanscomb Faithful & Gould	\$13,100
Traffic Study - Kimley-Horn & Assoc.	\$7,000
Parking Coordination - Kimley-Horn & Assoc. (Time & Materials)	\$4,500*
Total for Additional Services	\$46,350*
Grand Total for All	\$330,700*

* includes \$4,500 fee for possible Coastal Commission Coordination for insufficient parking; billed only if required

Safdie Rabines Architects
Rate Schedule

	Fee
Principal	\$ 185.00
Project Manager	\$ 130.00
Project Architect	\$ 110.00
Designer	\$ 90.00
Draftsperson	\$ 70.00
Administration	\$ 55.00