

STAFF REPORT



ITEM NO. 6
CITY OF OCEANSIDE

DATE: July 2, 2008

TO: Honorable Mayor and City Council Members

FROM: Development Services Department

SUBJECT: **APPROVAL OF AMENDMENT 3 IN AN AMOUNT NOT TO EXCEED \$234,000 TO THE PROFESSIONAL SERVICES AGREEMENT WITH TAYLOR GROUP, INC., FOR THE ENVIRONMENTAL REMEDIATION OF THE FORMER POLICE FUELING FACILITY**

SYNOPSIS

Staff recommends that the City Council approve Amendment 3 in an amount not to exceed \$234,000 to the Professional Services Agreement with Taylor Group, Inc., of Oceanside for the continued environmental remediation of the Old Police Fueling Facility located at 1617 Mission Avenue, and authorize the City Manager to execute the amendment.

BACKGROUND

The City has operated a fueling facility at the Former Oceanside Police Department site at 1617 Mission Avenue for decades. In 1992, a severely corroded single-walled fuel-tank was removed and evidence of fuel hydrocarbon leakage was found. Subsequently, the San Diego County Department of Environmental Health (DEH) directed the City to identify the extent of the contamination and develop an environmental remediation plan. In November 1999, Taylor-Hunter Associates, Inc., (now Taylor Group, Inc.) was retained by the City to develop the remediation plan that was ultimately approved by the DEH in January of 2001.

On February 14, 2001, the City Council approved a professional services agreement in the amount of \$290,000 with Taylor-Hunter Associates, Inc., to design and install the equipment necessary to carry out the approved environmental remediation plan. Initially, the City considered a catalytic oxidation treatment system, which burned the recovered fuel hydrocarbons. However, because of air quality considerations, the City used a carbon absorption treatment system, which adsorbs fuel hydrocarbons onto granular activated carbon.

On March 19, 2003, the City Council approved an Amendment 1 to the professional services agreement in the amount of \$500,000. At the time, the system had been operational for a year and had recovered 5,400 gallons of gasoline hydrocarbon.

On May 3, 2006, the City Council approved Amendment 2 to the professional services agreement in the amount of \$340,000 to continue the work with the carbon adsorption system beginning in June of 2006.

Hydrocarbon concentrations measured in the recovery system have decreased significantly since the system was put into service in 2001. Since 2002, it is estimated that 30,000 gallons of gasoline have been removed by the vapor-extract system. The declining hydrocarbon concentrations and volume of hydrocarbons removed indicate that the remedial action has been effective at recovering and removing gasoline in the soil and conveyed by the groundwater beneath the site. For the site, DEH requires only the removal of hydrocarbons that can migrate through the soil.

The distribution of dissolved hydrocarbons in groundwater as measured in August 2007, showed relatively high concentrations remaining at two locations. This information suggested that the current monitoring-well network did not fully define the extent of the dissolved hydrocarbon concentrations in the groundwater. Based on this information, DEH recommended the installation of two or more additional groundwater-monitoring wells, which were installed this year. The new wells are designed to provide additional definition of the extent of hydrocarbons in groundwater beneath the site. The new wells work in conjunction with the original vapor-extraction wells. When applying for future site closure, the additional wells will also provide data to demonstrate to DEH that the clean-up requirements have been met.

Presently, based on laboratory testing of groundwater samples, dissolved hydrocarbon concentrations have declined to low levels in some wells, but remain at relatively high levels in others despite the reduction in the gasoline vapor recovery rate by the vapor-extraction system. It should be noted that the scope and duration ongoing work at the Site depend largely on the requirements imposed by the DEH. Those requirements are not fully determined.

ANALYSIS

The cost of ongoing remediation involves the following components:

(1)	Quarterly Monitoring and Sampling through 2008	\$	106,500
(2)	Reports in Progress		11,500
(3)	Closure Report		20,000
(4)	Well Abandonment		60,000
(5)	Remediation System Decommissioning		<u>36,000</u>
		\$	234,000

The remediation effort is estimated to take up to another year of operation of the recovery system. Staff is recommending that the limit of Taylor Group's existing agreement be increased by an amount not to exceed \$234,000, to a total of \$1,364,000.

The recommended action will provide for the equivalent of one year of continual operation of the recovery system, and assumes that the amount of fuel hydrocarbons recovered shows normal patterns of continually dropping over time. Further, it is expected that additional recovery time will not be needed to remediate the site. However, because the need for additional operational, reporting or testing time can be more accurately assessed at a later date, we recommend amending Taylor Group's agreement, if necessary, at that later date.

FISCAL IMPACT

The FY 2008-09 Capital Improvement Program (CIP) budget for the environmental remediation of Oceanside Police Department fueling facility (501.878861) included new funding of \$230,000. Also, there is an amount \$130,000 in Mission Avenue Fuel site account (503.835220). Therefore there are sufficient funds available to complete the project.

In 2003, the City submitted a request to the State for recovery of the remediation costs. The City's claim as a cost-recovery site has been approved by the State through the Petroleum Underground Storage Tank Cleanup Fund. The full costs of the remediation, except for a \$10,000 deductible, are eligible for recovery. Based on the current funding for the program, the cost recovery is uncertain and could be several years away. However, the funds are available only to the extent that the program is funded by the State Legislature; and other claimants, such as small businesses, are paid ahead of municipalities.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be provided.

COMMISSION OR COMMITTEE REPORT

Does not apply.

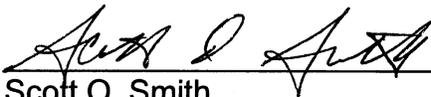
CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATION

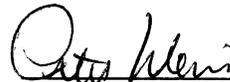
Staff recommends that the City Council approve Amendment 3 in an amount not to exceed \$234,000 to the Professional Services Agreement with Taylor Group, Inc., of Oceanside for the continued environmental remediation of the Old Police Fueling Facility located at 1617 Mission Avenue, and authorize the City Manager to execute the amendment.

PREPARED BY:



Scott O. Smith
City Engineer

SUBMITTED BY:



Peter A. Weiss
City Manager

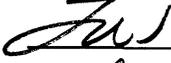
REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Lauren Wasserman, Interim Development Services Director

Teri Ferro, Financial Services Director







Attachments

PSA for Taylor Group, Inc.

CITY OF OCEANSIDE

AMENDMENT 3 TO: PROFESSIONAL SERVICES AGREEMENT

**PROJECT: Oceanside Police Department Fuel Facility Environmental Remediation
- (501) 878861**

THIS AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered into this ____ day of, 2008, 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 dated February 14, 2001, ("Agreement") whereby **CONSULTANT** was to provide for the design and installation of equipment necessary for the environmental remediation of the Oceanside Police Department fueling facility located at 1617 Mission Avenue.

WHEREAS, said Agreement was modified by Amendment No.1, dated March 19, 2003, to increase the scope of work and compensation as set forth in said Amendment No.1.

WHEREAS, the agreement was further modified by Amendment No. 2, dated May 3, 2006, to increase **CONSULTANT'S** compensation and scope of work to: (1) drill and install two additional monitoring wells and two additional vapor recovery wells, (2) test and provide quarterly reports, (3) operate and maintain the system to account further for the ongoing operations and maintenance expenses associated with the remediation and to account for the presence of chlorinated solvents in the recovery stream.

WHEREAS, it is now necessary to further expand the scope of **CONSULTANT'S** services to carry out the ongoing operations and maintenance of the carbon adsorption remediation method.

AMENDMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties herein, the parties hereto agree to amend the professional services agreement as follows:

A. SECTION 1, SCOPE OF WORK, is hereby amended to include the following additional work described herein:

CONSULTANT shall provide and maintain the following:

1. Quarterly monitoring & sampling through 2008
2. Provide reports in progress
3. Provide closure reports
4. Provide well abandonment
5. Remediation System Decommissioning

CITY OF OCEANSIDE

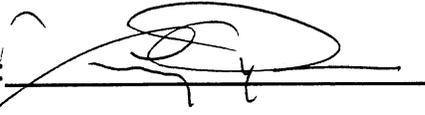
**AMENDMENT 3 TO:
PROFESSIONAL SERVICES AGREEMENT**

- B. SECTION 13, COMPENSATION**, is hereby amended by adding an amount not to exceed \$234,000 for the additional work as set forth above, increasing the total compensation to an amount not to exceed \$1,364,000.
- C.** All other terms, conditions, covenants and provisions of the Agreement as well as the terms, conditions, covenants and provisions of Amendments No. 1 and 2 to the Agreement shall remain in full force and effect. In the event of a conflict between the terms of the original agreement and this amendment, the terms of the amendment shall control.

SIGNATURES.

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

TAYLOR GROUP, INC.

BY: 

NAME: Larry R. Taylor

TITLE: President

CITY OF OCEANSIDE
CITY

BY: _____

PETER A. WEISS

TITLE: 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 }

On 6/9/08 before me, KATHLEEN A. LOVE,
Date Here Insert Name and Title of the Officer

personally appeared LARRY R. TAYLOR
Name(s) of Signer(s)

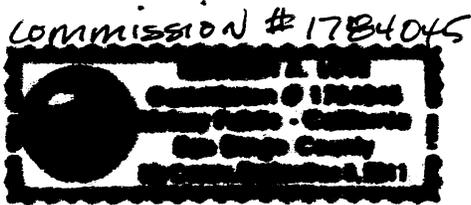
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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 [Signature]
Signature of Notary Public

Place Notary Seal 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: amendment 3 to: Professional services Agreement

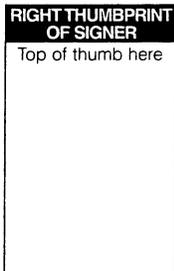
Document Date: 6/9/08 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

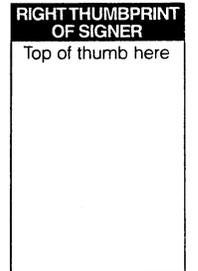
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

CITY OF OCEANSIDE

**AMENDMENT NO. 2 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: Oceanside Police Department Fuel Facility Environmental Remediation
(501) 878861**

THIS AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT (herein after "Amendment") is made and entered into this 3rd day of May, 2006, 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 dated February 14, 2001, whereby **CONSULTANT** was to provide for the design and installation of equipment necessary for the environmental remediation of the Oceanside Police Department fueling facility located at 1617 Mission Avenue.

WHEREAS, it is now necessary to: (1) drill and install two additional monitoring wells and two additional vapor recovery wells, (2) test and provide quarterly reports, (3) operate and maintain the system to account further for the ongoing operations and maintenance expenses associated with the remediation and to account for the presence of chlorinated solvents in the recovery stream.

WHEREAS, CONSULTANT has provided the **CITY** with an expanded scope of services to carry out the ongoing operations and maintenance of the carbon adsorption remediation method.

AMENDMENT

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES HERETO AGREE TO AMEND THE PROFESSIONAL SERVICES AGREEMENT AS FOLLOWS:

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

CONSULTANT shall provide and maintain the following:

- (1) drill for and install two additional monitoring wells and two additional vapor recovery wells, (2) test and provide quarterly reports, (3) operate and maintain the system to account further for the ongoing operations and maintenance expenses associated with the remediation and to account for the presence of chlorinated

solvents in the recovery stream at the Oceanside Police Department fueling facility located at 1617 Mission Avenue during the fiscal year 2005-06 and 2006-07.

- B. SECTION 13, **COMPENSATION**, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$340,000 FOR THE ADDITIONAL WORK AS SET FORTH ABOVE, INCREASING THE TOTAL COMPENSATION TO AN AMOUNT NOT TO EXCEED \$ 1,130,000.

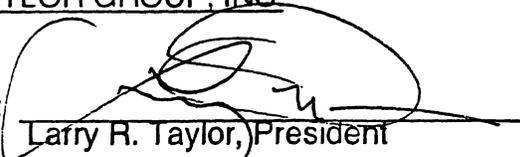
- C. ALL OTHER TERMS, CONDITIONS, COVENANTS AND PROVISIONS OF THE AGREEMENT AS WELL AS THE TERMS, CONDITIONS, COVENANTS AND PROVISIONS OF AMENDMENT NO. 1 TO THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. IN THE EVENT OF A CONFLICT BETWEEN THE TERMS OF THE ORIGINAL AGREEMENT AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.

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 herein agree to the performance of this Amendment.

TAYLOR GROUP, INC

By:


Larry R. Taylor, President

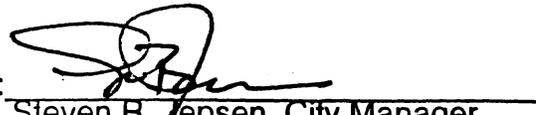
By:


Vicki L. Taylor, Corporate Secretary

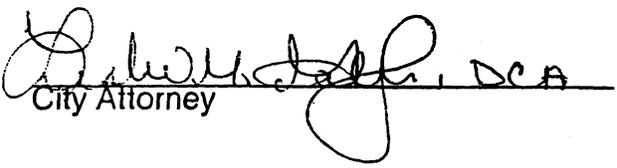
33-0842004
Employer ID No.

CITY OF OCEANSIDE

By:


Steven R. Jepsen, City Manager

APPROVED AS TO FORM:


City Attorney

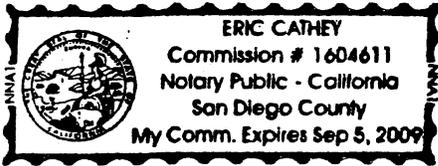
NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Diego } ss.

On April 3rd, 2006 before me, Eric Cathey,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Larry R Taylor and Vicki L. 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.

WITNESS my hand and official seal.

[Handwritten Signature]

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.

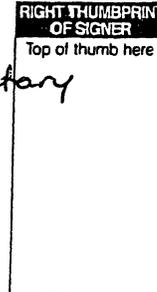
Description of Attached Document

Title or Type of Document: Amendment No. 2 to Professional Service Agreement
Document Date: April 3, 2006 Number of Pages: 2
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: Larry R Taylor and Vicki L. Taylor
- Individual
 - Corporate Officer — Title(s): President and Corporate Secretary
 - Partner — Limited General
 - Attorney-in-Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____



CITY OF OCEANSIDE

AMENDMENT NO. 1 TO
PROFESSIONAL SERVICES AGREEMENT

**PROJECT: Oceanside Police Department Fuel Facility Environmental Remediation
(501) 878861**

THIS AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered into this 18 day of February 2003, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and TAYLOR-HUNTER ASSOCIATES, INC., hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS, CITY and CONSULTANT entered into a professional services agreement dated February 14, 2001, whereby CONSULTANT was to provide for the design and installation equipment necessary for the environmental remediation of the Oceanside Police Department fueling facility located at 1617 Mission Avenue.

WHEREAS, it is now necessary to account for the ongoing operations and maintenance expenses associated with the remediation and to account for the presence of chlorinated solvents in the recovery stream has necessitated use of the carbon adsorption method of extraction which is initially more costly than catalytic oxidation method originally envisioned.

WHEREAS, CONSULTANT has provided the CITY with an expanded scope of services to carry out the ongoing operations and maintenance of the carbon adsorption remediation method.

AMENDMENT

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

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

Provide ongoing testing and quarterly reports, and operations and maintenance to the vapor extraction operations associated with the environmental remediation of the Oceanside Police Department fueling facility located at 1617 Mission Avenue during the fiscal year 2002-03 and 2003-04.

**Oceanside Police Department Fuel Facility Environmental Remediation
(501) 878861**

- B. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$500,000 FOR THE ADDITIONAL WORK AS SET FORTH ABOVE, INCREASING THE TOTAL COMPENSATION TO AN AMOUNT NO TO EXCEED \$790,000.**
- C. SECTION 6, CONSULTANT'S INDEMNIFICATION OF CITY, THE FIRST SENTENCE OF THE SECTION IS HEREBY DELETED AND REPLACED WITH THE FOLLOWING:**

CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents, and employees against all claims for damages to persons or property arising out of the conduct, negligent acts, errors, omissions or other 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.

- D. ALL OTHER TERMS, CONDITIONS, CONVENANTS 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.**

Oceanside Police Department Fuel Facility Environmental Remediation
(501) 878861

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 13th day of February 2003.

TAYLOR-HUNTER ASSOCIATES, INC.

CITY OF OCEANSIDE

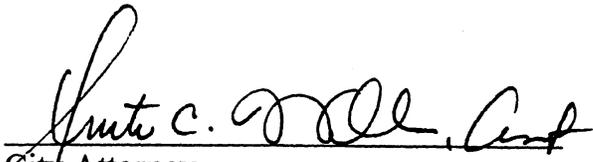
By: 
Larry R. Taylor, President

By: _____
Steven R. Jepsen, City Manager

By: 
Larry R. Taylor, Chief Financial Officer

APPROVED AS TO FORM:

33-0842004
Employer ID No.


City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN DIEGO

} ss.

On FEB 18, 2003, before me, JOEY LUDWICZAK
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared LARRY 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.



WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
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: AMENDMENT

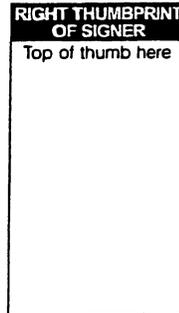
Document Date: FEB 18, 2003 Number of Pages: 1

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer

Signer's Name: LARRY TAYLOR

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



Signer Is Representing: TAYLOR-HUNTER ASSOCIATES, INC.

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: Oceanside Police Dept Fuel Facility Environmental Remediation

THIS AGREEMENT is made and entered into this _____ day of _____, 2001, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Taylor-Hunter Associates, Inc., hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described as follows:
Environmental remediation of the Oceanside Police Department fueling facility, 1617 Mission Avenue, DEH Case #H03330-002, as described in the work plan dated December 8, 2000, and final county closure of the site.
2. **INDEPENDENT CONSULTANT.** CONSULTANT's relationship to the CITY shall be that of an independent CONSULTANT. 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 CONSULTANT for this project without the prior written authorization by the City Engineer. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subCONSULTANTS 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.
3. **WORKER'S 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 Worker's 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 this Agreement.

Oceanside Police Dept Fuel Facility Environmental Remediation

4. LIABILITY INSURANCE.

4.1. 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.

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

<u>Comprehensive General Liability Insurance</u> (bodily injury and property damage)	
Combined Single Limit Per Occurrence	\$1,000,000
General Aggregate	\$2,000,000*
<u>Commercial General Liability Insurance</u> (bodily injury and property damage)	
General limit per occurrence	\$1,000,000
General limit project specific aggregate	\$2,000,000
<u>Automobile Liability Insurance</u>	\$1,000,000

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

4.3 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 CONSULTANTs work.

4.4 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 additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

4.5 All insurance companies affording coverage to the CONSULTANT pursuant to this

Oceanside Police Dept Fuel Facility Environmental Remediation

agreement shall be insurance organizations admitted 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.

4.6 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.

5. PROFESSIONAL ERRORS AND OMISSIONS INSURANCE. Throughout the duration of this Agreement and four (4) year thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00).

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

6. CONSULTANT'S INDEMNIFICATION OF CITY. CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the negligent acts, errors or omissions or other wrongful acts of conduct of the CONSULTANT, or its employees, agents, subCONSULTANTS, or others in connection with the execution of the work covered by this Agreement, except only for those claims arising from the sole negligence or sole willful conduct of the CITY, its officers, agents, or employees. CONSULTANT's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the CITY, its officers, agents, or employees in defending against such claims, 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.

7. COMPENSATION. CONSULTANT's compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of \$290,000 for the first year for installation of the remediation system and \$45,000 per year thereafter.

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.

8. TIMING REQUIREMENTS. Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. The installation of the system shall be completed in every

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detail to the satisfaction of the Engineer within 120 days. On-going monitoring shall continue as necessary and required by the county until the remediation is complete.

9. 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.

This agreement is valid for a period of one (1) year and may be extended on a year to year basis not to exceed a total of 5 years.

10. 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.

11. 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.

12. 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.

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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 this ____ day of _____, 2001.

TAYLOR HUNTER ASSOCIATES, INC.
CONSULTANT

CITY OF OCEANSIDE
CITY

BY: Larry R. Taylor, President
NAME/TITLE

BY: _____
NAME/TITLE

BY: 
NAME/TITLE

818 Civic Center Drive
ADDRESS

Oceanside, CA 92054

33-0842004
EMPLOYER I.D. NO.

