



DATE: August 12, 2009

TO: Honorable Mayor and City Councilmembers

FROM: City Manager's Office

SUBJECT: **AMENDMENT 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH RRM DESIGN GROUP FOR DEVELOPMENT ASSISTANCE FOR THE EL CORAZON PROJECT**

SYNOPSIS

The El Corazon Oversight Committee (ECOC) recommends that the City Council approve Amendment 3 in an amount not to exceed \$7,300 to the professional services agreement with RRM Design Group (RRM) of San Luis Obispo to modify the approved El Corazon Specific Plan to include development standards and design guidelines for up to 300 vertical mixed-use development units, pursuant to the Certified Environmental Impact Report (EIR); and authorize the City Manager to execute the amendment.

BACKGROUND

On May 17, 2006, the Council approved the original professional services agreement with RRM for El Corazon development assistance. On October 11, 2006, Council approved Amendment 1 to the professional services agreement. On October 15, 2008, Council approved Amendment 2 to the agreement for continued project coordination. On June 3, 2009, the City Council approved the Specific Plan for El Corazon and certified the EIR for the project that included up to 300 vertical mixed-use units. Consequently, the Specific Plan needs to be modified to reflect the Council's decision. It is anticipated that Amendment 3 will be the last amendment necessary to the RRM agreement. This amendment reflects the need to create development standards and design guidelines for the vertical mixed-use units.

ANALYSIS

The El Corazon Specific Plan needs to be modified to reflect the mixed-use option as outlined in the approved EIR. It is necessary to include development standards and design guidelines for the inclusion of up to 300 vertical mixed-use units. The current agreement with RRM does not provide for these additional tasks, so the agreement needs to be modified to reflect this necessary work effort.

FISCAL IMPACT

The proposed Amendment 3 to the professional services agreement will not exceed \$7,300. The Amendment will be funded from FY 2008-09 carry forward from the El Corazon P&R El Corazon Entitlements/EIR account (906406000598-5305), which has a current balance of \$10,724.73. There are sufficient funds available for this amendment.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The El Corazon Oversight Committee recommended approval of this item at its July 20, 2009, meeting.

CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATION

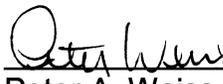
The El Corazon Oversight Committee (ECOC) recommends that the City Council approve Amendment 3 in an amount not to exceed \$7,300 to the professional services agreement with RRM Design Group (RRM) of San Luis Obispo to modify the approved El Corazon Specific Plan to include development standards and design guidelines for up to 300 vertical mixed-use development units, pursuant to the Certified Environmental Impact Report (EIR); and authorize the City Manager to execute the amendment.

PREPARED BY:



Michelle Skaggs Lawrence
Deputy City Manager

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Douglas E. Eddow, Real Estate Manager
Teri Ferro, Financial Services Director



Attachments: Amendment 3
Add-service proposal from RRM

**CITY OF OCEANSIDE
AMENDMENT 3 TO
PROFESSIONAL SERVICES AGREEMENT**

PROJECT: EL CORAZON DESIGN ASSISTANCE

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered into this _____ day of _____, 2009, by and between the City of Oceanside, a municipal corporation, hereinafter designated as "CITY", and RRM Design Group, hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS, CITY and CONSULTANT are the parties to a Professional Services Agreement dated May 17, 2006, hereinafter referred to as the "Agreement", and whereas CITY and CONSULTANT are parties to a Professional Services Agreement Amendment 1 dated October 11, 2006, and Amendment 2 dated October 15, 2008, wherein CONSULTANT agreed to provide certain services to the CITY set forth therein; and

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Section 1, Scope of Work, and Section 10, 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, Scope of Work, shall be amended to reflect and include Tasks outlined in the proposal concerning the creation of development standards and guidelines for up to 300 vertical mixed-use units as outlined in the certified Environmental Impact Report (EIR) for the site, attached as Exhibit A and incorporated herein by reference.

2. Section 10, Compensation, shall be amended to reflect that the total cost of the additional tasks (Exhibit A) outlined in Section 1, shall not exceed \$7,300 and that the total contract price shall not exceed \$197,300.

3. Except as expressly set forth in Agreement Amendments 1, 2, and 3, 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 Agreement 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 _____ day of _____, 2009.

RRM DESIGN GROUP

By: 
By: 

CITY OF OCEANSIDE

By: _____
Peter A. Weiss, City Manager
Date: _____

Employer ID No. 95-2923783

APPROVED AS TO FORM


City Attorney

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED

**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT**

State of California

County of SAN LUIS OBISPO

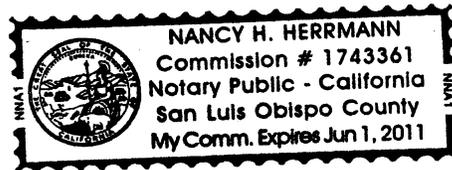
On JULY 22, 2009 before me, NANCY H. HERRMANN (Notary Public)

personally appeared ERIK P. JUSTESEN AND GREGORY PETERS,

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 Nancy H. Herrmann

(Seal)

**CITY OF OCEANSIDE
AMENDMENT 2 TO
PROFESSIONAL SERVICES AGREEMENT**

PROJECT: EL CORAZON DESIGN ASSISTANCE

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered into this 15th day of October, 2008, by and between the City of Oceanside, a municipal corporation, hereinafter designated as "CITY", and RRM Design Group, hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS, CITY and CONSULTANT are the parties to a Professional Services Agreement dated May 17, 2006, hereinafter referred to as the "Agreement", and whereas CITY and CONSULTANT are parties to a Professional Services Agreement Amendment 1 dated October 11, 2006, hereinafter referred to as Agreement Amendment 1, wherein CONSULTANT agreed to provide certain services to the CITY set forth therein; and

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Section 1, Scope of Work, and Section 10, Compensation.

AMENDMENT

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

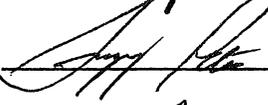
1. Section 1, Scope of Work, shall be amended to reflect and include Task X1, Advisory Group Presentation, and Task X2, Project Coordination, as described in the proposal dated September 5, 2008, and is attached as Exhibit A and incorporated herein by reference.
2. Section 10, Compensation, shall be amended to reflect that the total cost for the two additional tasks outlined in Section 1, Task X1 and Task X2, shall not exceed \$14,000 and that the total contract price shall not exceed \$190,000.
3. Except as expressly set forth in Agreement Amendments 1 and 2, 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 Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

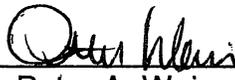
IN WITNESS WHEREOF, the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the Agreement, including this Amendment and have caused this Amendment to be executed by setting hereunto their signatures this 15th day of October, 2008.

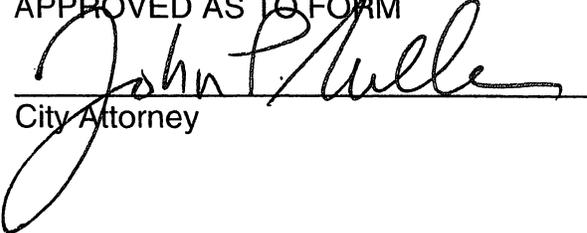
RRM DESIGN GROUP

By: 
ERIK P. JUSTESEN, CEO

By: 
GREGORY PETERS, CFO/SECRETARY
Employer ID No. **95-2923783**

CITY OF OCEANSIDE

By: 
Peter A. Weiss, City Manager

APPROVED AS TO FORM

City Attorney

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Luis Obispo }

On 10/01/08 before me, Shawna L. Dillard, Notary Public
Date Here Insert Name and Title of the Officer

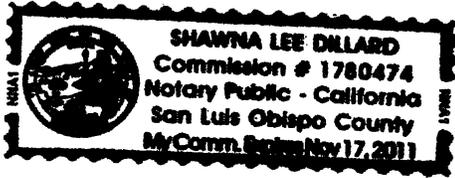
personally appeared Erik P. Justesen and Gregory A. Peters
Name(s) of Signer(s)

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 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: City of oceanside, Amed #2

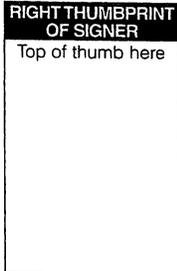
Document Date: _____ Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Erik P. Justesen

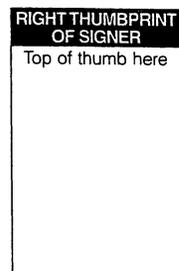
- Individual
- Corporate Officer — Title(s): CEO
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: Gregory A. Peters

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



Signer Is Representing: _____

**AMENDMENT NO. 1
EL CORAZON DESIGN ASSISTANCE
PROFESSIONAL SERVICES AGREEMENT**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this 11th day of October, 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RRM Design Group, hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS, CITY and CONTRACTOR are the parties to a Professional Services Agreement, dated May 17, 2006 and;

WHEREAS, CONTRACTOR and CITY have agreed it is in both parties' best interest to amend the El Corazon Design Assistance Professional Services Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereto agree as follows:

1. The Agreement shall be amended as follows:

Delete **Task A02.1: Hearing Draft** in its entirety.

Delete **Task A03.2: Hearing Draft Design Guidelines** in its entirety.

Add **Task A06: Administrative Draft Specific Plan** In this portion of the project, the consultant team will compile the work to date and work with the ECOC and city staff in the production of the Specific Plan. RRM will utilize the June 28, 2005, El Corazon Master Plan as a basis for the majority of the Specific Plan content. The consultant team will format the Specific Plan document and produce a draft of the overall document. The consultant team will coordinate with city staff on the most appropriate format for clarity, conciseness, and ease of use.

In this task the consultant team will compile the Administrative Draft—including existing conditions analysis, public improvements and streetscape guidelines, architectural design guidelines, land uses, zoning and development standards, circulation, infrastructure recommendations, an implementation plan, and an administration chapter—into a comprehensive Specific Plan document for the 465-acre property.

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EL CORAZON DESIGN ASSISTANCE
PROFESSIONAL SERVICES AGREEMENT**

The following describes in more detail the contents of the Specific Plan:

Introduction

The Introduction discusses the purpose, intent, and organization of this document. It describes the Specific Plan area boundaries and the community outreach process associated with the project, as well as the Specific Plan's relationship to the other pertinent city documents. The community's vision for El Corazon, the guiding park design principles, and the contents of the Specific Plan will also be described.

Budget \$4,100

(Including page layout, cover, table of contents)

Streetscape Improvements and Public Amenities

This chapter will provide direction for public improvements for the entire Specific Plan area. Topics include public signage and wayfinding, public plazas and park features, and street design treatments such as parking, medians, street trees, lighting, street furnishings, crosswalks, public art, and public right-of-way landscaping.

Budget \$20,000

Circulation and Mobility

This chapter will describe the circulation and mobility recommendations of the plan including street design and routing, pedestrian and bike trail design and routing and public transit recommendations.

Note: All recommended changes to the Circulation Element of the General Plan relating to circulation improvements (auto, transit, and bicycle), necessary upgrades to the existing street network, identification, classification and size of future roads, and existing and proposed street cross sections will be provided to RRM by the city's traffic consultant.

Budget \$4,000

Land Use, Zoning, Site Development Standards and Architectural Design Guidelines

This section will address land uses, Specific Plan zoning and site development standards, and architectural design guidelines for the entire project site. The development standards will address such topics as building height, setback, and parking standards while the design guidelines will provide direction for property within the Specific Plan for such topics as site planning and design, parking lot design and screening, building design, massing and articulation, lighting,

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utilitarian aspects of buildings, and landscape and hardscape. Please note that the site development standards and design guidelines for the commercial areas will be performed under existing tasks A02-A03.4 (excluding Tasks A02.1 and A03.2) and will be incorporated into the draft Specific Plan.

Budget \$9,000

Infrastructure and Public Facilities

This chapter summarizes the conditions of the infrastructure and public facilities in the Specific Plan area. Subjects addressed include water supply, sewer and waste water, solid waste, storm drainage, police and fire protection, schools, and parks.

Note: HDR will provide a summary of the baseline data collected during consultation with the school district, fire department, and police department to RRM early in the process. PDC will provide a summary of baseline data collected during consultation with City Public Works and Engineering, and Public Utilities. RRM will coordinate with HDR and PDC on necessary infrastructure improvements.

Budget \$5,000

Plan Implementation

This chapter will identify strategic public improvements and key catalyst projects and programs necessary to make the vision a reality. Priority actions, park and development area phasing, infrastructure and grading phasing (from HDR - EIR and PDC - engineering consultants), potential funding mechanisms, and organizations responsible for implementation items are all defined by this chapter.

Budget \$12,000

Plan Administration

This section describes the authority of the Specific Plan and the administrative procedures required for amendments and/or modifications to the Specific Plan. It will include the plan's relationship to other planning documents, administrative procedure regarding amendments, allowable land uses, flexibility in application of development standards, non-conforming uses, and cost recovery provision.

Budget \$5,000

Deliverables: Prepare Administrative Draft of the Specific Plan. Delivery of one (1) unbound hard copy and one (1) electronic version for ECOC and staff

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review. ECOC and staff will provide one (1) consolidated marked up redline version of all comments. RRM will prepare revisions in the hearing draft and produce final development standards in electronic format suitable for inclusion in zoning change document.

Total Fee for Task A06: \$59,100 *

*** Note:** Refer to subtasks for Admin Draft for estimated allocation of fee.

Add **Task A07: Hearing Draft** RRM will make suggested modifications to the Specific Plan as directed by the ECOC and staff so that the document will be ready for approvals by the Planning Commission and City Council. ECOC and staff will consolidate comments into one (1) redlined draft for RRM revisions. (Note: This task replaces Tasks A02.1 and A03.2.)

Through the adoption of the El Corazon Specific Plan and associated resolutions, RRM will assist staff to prepare an amendment to the Rancho del Oro Specific Plan by removing the El Corazon property from the RDO plan, and amending the City of Oceanside General Plan by referencing the new El Corazon Specific Plan. The staff report will provide a written summary and justification for the amendment.

Deliverables: Revised Specific Plan document per staff and ECOC review one (1) unbound copy and one (1) electronic copy

Total Fee for Task A07: \$6,500

Add **Task A08: Application Package for Planning Department Processing**. RRM will prepare the "Application Package for Planning Department Processing" by filling-out and processing land use planning applications and environmental information forms. It should be noted that RRM will prepare information that is relevant to processing a Specific Plan with the level of information shown in Task A06 above as the basis. No other more detailed information concerning specific site development plans such as building elevations, floor plans, landscape plans will be provided.

RRM will assemble plans and reports as outlined in the application package from city sources such as existing conditions map (5 copies), slope analysis (5 copies, if available), preliminary drainage and grading plans (5 copies, if available). RRM will not provide the following: Development Plan (25 copies plus 1 vellum), Plot Plan (N/A), typical building elevations and floor plans (N/A), or color elevations (N/A).

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Deliverables: RRM will prepare application forms and package for the El Corazon Specific Plan as described above. Meetings with Application Review Committee, El Corazon Committee and other city committees, and any outside agencies will be completed under Task A05.

Note: Completion of this "Application Package" tasks assumes that city staff will supply title reports for the project area, in addition to the legal description for the project area, and assemble 300-foot radius map and mailing labels. A second assumption is that the city will not require a three dimensional scale model of the project site (Hillside Regulations Item 6). HDR will fill out environmental forms.

Total Fee for Task A08: \$1,000

Add **Task A09: Planning Commission Hearing** The consultant team will prepare for and attend one (1) Planning Commission hearing to present the Hearing Draft Specific Plan. Errata sheets may be used to discuss preferred changes between the Planning Commission and City Council hearings.

Deliverables: Prepare PowerPoint and attend one (1) Planning Commission hearing, assist city staff in presenting Hearing Draft Specific Plan at the hearing. Make list of Planning Commission suggested revisions to present to City Council.

Total Fee for Task A09: \$5,000

Add **Task A10: City Council Hearing** The consultant team will prepare for and attend a City Council hearing to present the Hearing Draft Specific Plan.

Deliverables: Prepare for and attend a City Council meeting. Assist city staff in presenting Hearing Draft Specific Plan at City Council hearings.

Total Fee for Task A10: \$3,500

Add **Task A11: Final Specific Plan** Following the action taken by the City Council, the final edits and modifications will be made to the documents. It is assumed that one set of revisions will be made to the document incorporating both the Planning Commission and City Council adopted action, and that staff will provide RRM with one (1) redlined copy of the hearing draft consolidating revisions that resulted from the hearings.

Deliverables: Make final edits and produce one (1) unbound reproducible and one (1) electronic copy. If additional bound colored copies are desired, RRM will assist the city in determining the most cost effective method to produce multiple documents.

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Total Fee for Task A11: \$5,000

Add Additional Reimbursable Expenses:

Budget: \$3,000

RRM will bill direct expenses at cost plus 10% for administrative. Cost for expenses will include travel related expenses, photography, fax, long distance telephone, plotting, printing, copying, and other costs associated with producing the work products as described in the scope of work.

Section 10. COMPENSATION is amended as follows:

Remove \$100,000 and replace with \$176,000. The adjusted compensation reflects the \$7,100 savings achieved by deleting Task A02.1 and A03.2 and the additional \$83,100 in cost of adding Tasks A06 through A11 plus the additional reimbursable expenses.

2. All other terms, conditions, covenants and provisions of the PROFESSIONAL SERVICE AGREEMENT shall remain in full force and effect.

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**AMENDMENT NO. 1
EL CORAZON DESIGN ASSISTANCE
PROFESSIONAL SERVICES AGREEMENT**

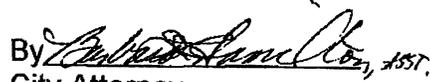
IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement Amendment to be executed by setting hereunto their signatures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

CITY

Date 12-19-2006

By 
City Manager

APPROVED AS TO FORM:

By 
City Attorney

CONSULTANT

RRM DESIGN GROUP

Date 10/10/06

By 
Victor Montgomery, President

Date 10/10/2006

By 
Gregory Peters,
Chief Financial Officer

NOTARY ACKNOWLEDGMENTS OF CONSULTANT'S SIGNATURE(S) MUST BE ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of SAN LUIS OBISPO } ss.

On OCTOBER 10, 2006 before me, DANA POLLARD, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared GREGORY PETERS & VICTOR MONTGOMERY
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.

Dana Pollard
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: _____

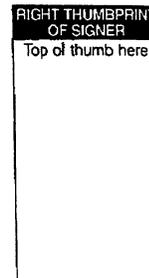
Signer(s) Other Than Named Above: _____

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: _____



CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: EL CORAZON DESIGN ASSISTANCE

THIS AGREEMENT is made and entered into this 17th day of May, 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RRM Design Group, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. SCOPE OF WORK. The project is more particularly described as follows:

Assist the City of Oceanside and El Corazon Oversight Committee in the development of El Corazon.

The scope of work is further described in the El Corazon Design Guidelines, Public Facilities Financing Plan and Developer RFQ/RFP Scope of Work dated March 30, 2006, attached as Exhibit "A" and incorporated herein by this reference.

2. 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 solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.
3. 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 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.

EL CORAZON DESIGN ASSISTANCE
PROFESSIONAL SERVICES AGREEMENT

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:

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 aggregate	\$ 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.

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 CONSULTANT'S 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

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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 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 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.
- 4.7 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 4.8 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.
- 4.9 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.
5. 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 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 wrongful acts or conduct of the CONSULTANT, or its

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PROFESSIONAL SERVICES AGREEMENT

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, attorneys' fees, expert 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 conduct, 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. 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 Director of Finance.
8. 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 below, for any claims for damages resulting from the CONSULTANT'S violation of this Section.
9. 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 materials produced under this Agreement for the purpose of documenting their participation in this project.

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10. COMPENSATION.

10.1 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 "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 Public Works Director. CONSULTANT'S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of \$100,000.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the Public Works Director. CONSULTANT shall obtain approval by the Public Works Director prior to performing any work which results in incidental expenses to CITY as set forth in Section 10.2.2.

10.2 CONSULTANT shall maintain accounting records including the following information:

10.2.1 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.

10.2.2 All incidental expenses including reproductions, facsimiles, computer printing, postage, travel, mileage and subsistence.

10.3 CONSULTANT'S accounting records shall be made available to the Public Works Director for verification of billings, within a reasonable time of the Director of Finance's request for inspection.

10.4 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 Public Works Director.

11. TERMINATION OF AGREEMENT. This Agreement shall terminate one (1) year from the date entered into. Either party may terminate this Agreement by providing ten (10) days written notice to the other party. The Agreement may be extended to accommodate project deadlines, if mutually agreed to in writing by both parties, as a formal amendment to this Agreement. All other terms and conditions of this original agreement would remain in effect.

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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.

12. 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.

13. 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. All work shall be completed in every detail to the satisfaction of the Public Works Director as outlined in Exhibit A and incorporated herein by this reference.
14. 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.
15. 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.

16. 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.

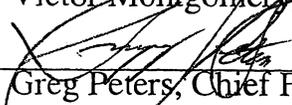
EL CORAZON DESIGN ASSISTANCE
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17. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal 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 this 17th day of May, 2006.

RRM DESIGN GROUP

By: 
Victor Montgomery, President

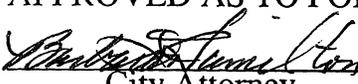
By: 
Greg Peters, Chief Financial Officer

95-2923783
Employer ID No.

CITY OF OCEANSIDE

By: 
Steven R. Jepsen, City Manager

APPROVED AS TO FORM:


Assistant City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

Exhibit A: Scope of Work
Exhibit B: Billing Rates Schedule

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

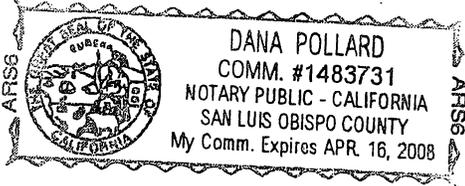
State of California }
County of SAN LUIS OBISPO } ss.

On APRIL 11, 2006 before me, DANA POLLARD, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared VICTOR MONTGOMERY & GREL PETERS,
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.

Dana Pollard
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: 15

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

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

Signer Is Representing: _____

