

STAFF REPORT



ITEM NO. 12
CITY OF OCEANSIDE

DATE: March 2, 2011

TO: Honorable Mayor and Councilmembers

FROM: Water Utilities Department

SUBJECT: **RATIFICATION OF EXECUTION OF PUBLIC WORKS AGREEMENT IN THE AMOUNT OF \$245,240 WITH VADNAIS CORPORATION FOR CONSTRUCTION; AMENDMENT 1, 2, AND 3 IN THE TOTAL AMOUNT OF \$88,539 FOR ADDITIONAL SERVICES TO THE PROFESSIONAL SERVICES AGREEMENT WITH RECON ENVIRONMENTAL; PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$68,600 WITH AFFINIS ENVIRONMENTAL SERVICES FOR ARCHEOLOGICAL INVESTIGATION FOR THE HAYMAR SEWER SEGMENT EMERGENCY PROJECT**

SYNOPSIS

Staff recommends that the City Council ratify the execution of the public works agreement in the amount of \$245,240 with Vadnais Corporation of Vista, for construction; Amendment 1 in the amount of \$2,338 for additional responses to public comments, Amendment 2 in the amount of \$26,769 for revisions to the MND and Amendment 3 in the amount of \$59,432 for biological and archeological monitoring and reporting, to the professional services agreement with RECON Environmental for preparation of a negative declaration; and a professional services agreement in the amount of \$68,600 with Affinis Environmental Services of El Cajon for archeological investigation for the Haymar Sewer Segment Emergency project located west of College Boulevard and south of State Route 78.

BACKGROUND

The City of Oceanside identified a portion of the Haymar sewer for immediate replacement. The existing 15" Vitrified Clay Pipe (VCP) was installed in 1961 and was listed in the City's Integrated Water Utilities Master Plan as a future scheduled replacement project. This project consisted of the relocation of approximately 400 linear feet of 15" VCP gravity sewer pipe.

On April 9, 2008, a professional services agreement was executed between the City of Oceanside and RECON Environmental for environmental services which included the MND for the Haymar Sewer Segment Replacement project. Last year there was an additional cost of \$2,338 to address public comments on the MND. This additional cost is reflected in Amendment 1; the emergency work by RECON Environmental requires Council approval.

On Tuesday, December 28, 2010, Water Utilities staff discovered that a portion of this line was broken, necessitating emergency repairs as a result of heavy rainfall and flooding. The City Council adopted a resolution on January 5, 2011, ratifying a Proclamation of Local Emergency by the Director of Emergency Services.

Since the storms and emergency declaration, staff has proceeded with the construction, archaeological and environmental work for the Haymar repair as allowed by the emergency contracting procedures. The repair consists of the replacement and realignment of 440 feet of sewer pipe utilizing the horizontal directional drilling method. This trenchless technology to install the proposed pipe would result in a decrease to the environmental and archeological impacts on the project. Staff has also conferred with interested parties and received concurrence on the use of trenchless technology to reduce impacts.

ANALYSIS

Staff requested emergency proposals from 3 firms and received 2 proposals and 1 declination to propose on January 5, 2011. The proposals and company name are in the table below.

Company	Construction Cost
Vadnais Corporation	\$245,240
TC Construction	\$395,100
Guy & Sons	Declined

A Notice to Proceed was issued to Vadnais Corporation on January 13, 2011, and construction work began on January 24, 2011. The construction phase is expected to be completed by March 11, 2011. On-site biological, archeological, and Native American monitoring will be required throughout the construction period. These not-to-exceed-costs are shown in the table below.

Company	Services	Cost
RECON Environmental	Revisions to Mitigated Negative Declaration	\$26,769
Affinis Environmental Services	Archeological Investigation	\$68,600
Saving Sacred Sites	On-site Monitoring	\$10,800
Right of Way Engineering	Construction Staking	\$8,000
RECON Environmental	As-needed Monitoring	\$59,432

The emergency construction and additional services costs for the project total \$418,841. During the construction, the City of Vista is temporarily accommodating Oceanside’s sewer diversion flow into the City of Vista sewer. Due to the vulnerability of the Vista line they are requesting our flow diversion be terminated as soon as possible.

When the emergency work is completed the Mitigated Negative Declaration (MND) will be modified and sent out for public review. The final MND and acceptance of the completed project will be brought before Council in late summer 2011.

FISCAL IMPACT

A Federal Emergency Management Agency claim is being filed and the costs associated with the Haymar Emergency Sewer Segment are being tracked through the Haymar Sewer fund (750810228). The Miscellaneous Sewer fund (909978000722) has an available balance of \$550,834. Therefore there are adequate funds for this project.

COMMISSION OR COMMITTEE REPORT

The Utilities Commission received a report on the Haymar Sewer Segment Replacement Emergency project at its meeting on February 14, 2011, and will receive status updates on the repair and relocation of the line at subsequent meetings.

CITY ATTORNEY'S ANALYSIS

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

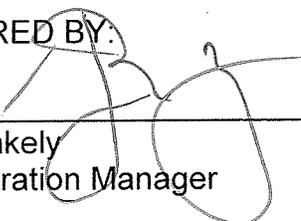
INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

RECOMMENDATIONS

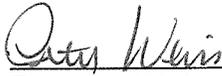
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PREPARED BY:



Greg Blakely
Administration Manager

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Cari Dale, Water Utilities Director

Teri Ferro, Financial Services Director







- Exhibit A – Public Works Agreement
- Exhibit B – Amendment 1
- Exhibit C – Amendment 2
- Exhibit D – Amendment 3
- Exhibit E – Professional Services Agreement

Job 909978000722 Misc Sewer Projects
Project 869780 CIP S-Misc Sewer Projects

Job	Cost Code	Cost Type	Description	L P M	Budget Amount	Actual Amount	Open Commit Amount	Available Budget Amt
909978000722		4000	Revenues	3 ND				
909978000722		4000	Revenues	3 T	1,197,941.00-			1,197,941.00-
909978000722		5000	Expenditures	3 ND				
909978000722		5100	Personnel Services	4 ND				
909978000722		5100	Personnel Services	4 T	102,043.00	60,116.54		41,926.46
909978000722		5200	Prsnl Svc - Employee Benefits	4 ND				
909978000722		5200	Prsnl Svc - Employee Benefits	4 T	32,247.00	17,741.55		14,505.45
909978000722		5300	Maintenance & Operations	4 ND				
909978000722		5300	Maintenance & Operations	4 T		124,587.79	101,085.09	225,672.88-
909978000722		5600	Internal Service Charges	4 ND				
909978000722		5600	Internal Service Charges	4 T	13,652.00	7,966.00		5,686.00
909978000722		5700	Capital Outlay	4 ND				
909978000722		5700	Capital Outlay	4 T	1,000,000.00		48,898.25	951,101.75
909978000722		6000	Below the Line Items	4 ND				
909978000722		6000	Below the Line Items	4 T	1,147,942.00	210,411.88	149,983.34	787,546.78
909978000722		5000	Expenditures	3 T	49,999.00-	210,411.88	149,983.34	410,394.22-
909978000722			Misc Sewer Projects	2 T	49,999.00-	210,411.88	149,983.34	410,394.22-
			Total:	1 T	49,999.00-	210,411.88	149,983.34	410,394.22-

CITY OF OCEANSIDE CONTRACT DOCUMENTS

SECTION 1: AWARD DOCUMENTS

1.1 PUBLIC WORKS AGREEMENT

PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT (750810228)

PLAN REFERENCE NUMBERS: S-3380-3, sheet 4

THIS PUBLIC WORKS AGREEMENT is made and entered into for the above referenced Project, this 18th day of February, 2011, BY AND BETWEEN the City of Oceanside, as AGENCY, and Vadnais Corporation, as CONTRACTOR.

WITNESSETH that AGENCY and CONTRACTOR have mutually agreed as follows:

1.1.1 Contents of Contract Documents. The Contract Documents for this project shall consist of the Instructions to Bidders, Public Works Agreement, Notice to Proceed, General Provisions, Special Provisions, Plans, Exhibit 1 through Exhibit 3 and all permits from other agencies as may be required by law. All Contract Documents not attached hereto are incorporated herein by reference.

The Contract Documents may be amended in writing from time to time in accordance with Subsections 1.1.16, and 2.21, to clarify or modify the work contemplated in order to ensure the completion of the work in an acceptable manner. These amendments shall be incorporated into the Contract Documents.

If there is a conflict between Contract Documents, the document highest in precedence shall control. The precedence shall be:

- a. Requirements set by Local, State and Federal law, including permits required thereby.
- b. Amendments approved pursuant to Subsections 1.1.16, and 2.21.
- c. Instructions to Bidders, Award Documents, Notice to Proceed and General Provisions.
- d. Special Provisions.
- e. Plans.
- f. Bid Documents and Exhibits.

- g. All other notices, reports, and documents to the extent specifically referred to in other Contract Documents.

1.1.2 Agency's Obligations. AGENCY hereby promises and agrees to pay CONTRACTOR for all work performed in accordance with these Contract Documents at the time, in the manner, and upon the conditions set forth in the Contract Documents.

1.1.3 Authorized Agency Representatives. On behalf of the AGENCY, and through the authority of the City Manager, the City Engineer (hereinafter "Engineer") shall be the AGENCY's authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The Engineer may delegate authority in connection with this Agreement to the Engineer's designees. The Engineer is authorized to approve change orders which do not exceed ten thousand dollars (\$10,000.00) and which do not exceed ten percent (10%) of the Contract price. Change orders in excess of these amounts shall be approved only by action of the City Council. The Project Manager shall be the Engineer's authorized representative for the purposes of administering this Contract, interpreting and enforcing the terms of the Contract Documents and approving contract change orders which do not result in a change in compensation or time for performance. The Project Manager shall be Jason Dafforn unless otherwise amended in writing by the Engineer. The Project Manager and the Inspector, on behalf of the Engineer, shall be authorized to suspend the CONTRACTOR's performance, and shall have access at all times to the Project Site and all Contract Documents in the CONTRACTOR's possession. The Inspector shall be determined in writing by the Engineer. The CONTRACTOR shall promptly comply with instructions from the Engineer or from any authorized representative.

1.1.4 Contractor's Obligations. For and in consideration of the payments and agreements to be made and performed by AGENCY, CONTRACTOR agrees to perform or cause to be performed all work set forth in the Contract Documents which shall consist of furnishing all materials, equipment, tools, labor and incidentals required to complete the project in a good and workmanlike manner satisfactory to the Engineer. The CONTRACTOR shall furnish and maintain in good condition all equipment and facilities as required for the proper execution and inspection of the Work.

The CONTRACTOR shall perform diligently and continuously in order to complete all work set forth in the Contract Documents in every detail to the satisfaction of the Engineer. The CONTRACTOR shall complete all work in every detail to the satisfaction of the Engineer, exclusive of maintenance periods, within the Contract Time of 60 calendar days after the Commencement Date set forth in the Notice to Proceed is sent by the AGENCY.

The CONTRACTOR'S work at the Project Site shall be confined to work days between 8:00 a.m. and 4:30 p.m. on residential, local, and collector streets, and 9:00 a.m. and 3:00 p.m. on arterial streets. Some arterial streets may require night work between the

hours of 9:00 p.m. and 5:00 a.m. as determined by the Engineer. Deviation from these hours will not be permitted without the prior consent of the Engineer, except in emergencies involving immediate hazard to persons or property.

In the event of either a requested or emergency deviation, inspection fees will be charged against the CONTRACTOR. The service fees will be calculated at overtime rates including benefits, overhead, and travel time. The service fees will be deducted from any amounts due to the CONTRACTOR.

CONTRACTOR's relationship to the AGENCY shall be that of an independent contractor. CONTRACTOR shall have no authority, express or implied, to act on behalf of the AGENCY as an agent, or to bind the AGENCY to any obligation whatsoever, unless specifically authorized in writing by the Engineer.

CONTRACTOR shall be solely responsible to AGENCY for the performance of the CONTRACTOR, and any of its employees, agents, subcontractors, or suppliers, under these Contract Documents. The CONTRACTOR agrees to bind every subcontractor by the terms of these Contract Documents as far as such terms are applicable to the subcontractor's work. Only competent workers shall be employed on the Work. Any person employed, who is found to be incompetent, intemperate, troublesome, disorderly or otherwise objectionable, or who fails or refuses to perform work properly and acceptably, shall be immediately removed from the Work by the CONTRACTOR and not be re-employed on the Work.

1.1.5 Time of the Essence. Time is of the essence in performance of work under these Contract Documents and all timing requirements shall be strictly adhered to unless otherwise modified by the AGENCY in accordance with the Contract Documents.

1.1.6 City Business License. Prior to the commencement of any work under this Agreement, the CONTRACTOR shall obtain and present a copy of an Oceanside City Business License to the City Engineer.

1.1.7 Compliance with NPDES and Storm Water Discharge Requirement. Prior to the commencement of any work, the CONTRACTOR shall verify evidence of existing coverage under California's Statewide General NPDES permit for Storm Water Discharges Associated with Construction Activities for all projects subject to the permit. CONTRACTOR shall also retain on the jobsite a Storm Water Pollution Prevention Plan (SWPPP), for inspection by the California Regional Water Quality Control Board (RWQCB) to the State Water Resources Control Board and the City and shall implement the approved plan concurrent with the construction activities. CONTRACTOR shall comply with all applicable Federal, State and local laws, regulations and requirements pertaining to storm water discharges. Failure to do so can result in the issuance of a Stop Work Order until such time as the site is brought into compliance.

CONTRACTOR shall comply with California RWQCB Order No. R9-2008-0002. CONTRACTOR shall file a discharge Notice of Intent (NOI), and comply with all permit requirements for any proposed discharge of groundwater, including construction groundwater extraction, or excavation or foundation groundwater extraction from any source (other than Stormwater runoff) regardless of volume. The discharge of groundwater NOI and permit requirements are separate from and in addition to the State General NPDES Permit for Stormwater discharge associated with construction activities, NOI, and related Stormwater permit requirements.

1.1.8 Contractor's Compensation. The CONTRACTOR agrees to receive and accept the sum of \$245,240 pursuant to the Bid Schedule ~~set forth in Section 3.5~~, as full compensation for furnishing all materials, performing all work, and fulfilling all obligations according to the terms and conditions of the Contract Documents. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of faithfully completing the work in the time and manner specified in the Contract Documents.

1.1.9 Workers' Compensation Certification. Pursuant to Labor Code Section 1861, the CONTRACTOR hereby certifies that the CONTRACTOR 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 CONTRACTOR will comply with such provisions, and provide certification of such compliance as a part of these Award Documents. The certification shall be in accordance Subsections 1.1.10(d) through 1.1.10(h) of this Agreement.

The portion of Section 3700 of the California Labor Code which is relevant to this project is as follows:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employee."

1.1.10 Liability Insurance.

(a) CONTRACTOR shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage, insurance, or commercial general liability insurance, covering all operations of CONTRACTOR, its agents

and employees, performed in connection with this Agreement including but not limited to premises and automobile.

(b) CONTRACTOR shall maintain insurance in the following minimum amounts:

(1) FOR PROJECTS OF \$250,000 OR MORE

(a)	<u>Comprehensive General Liability Insurance</u> (bodily injury and property damage) Combined Single Limit Per Occurrence	\$1,000,000
	<u>Automobile Liability Insurance</u>	\$1,000,000

or

(b)	<u>Comprehensive 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

(2) FOR PROJECTS LESS THAN \$250,000

(a)	<u>Comprehensive General Liability Insurance</u> (bodily injury and property damage) Combined Single Limit Per Occurrence	\$ 200,000
	<u>Automobile Liability Insurance</u>	\$ 200,000

or

(b)	<u>Comprehensive General Liability Insurance</u> (bodily injury and property damage)	
	General limit per occurrence	\$ 200,000
	General limit project specific aggregate	\$ 500,000
	<u>Automobile Liability Insurance</u>	\$ 200,000

(3) FOR ALL PROJECTS

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 AGENCY may require additional coverage to be purchased by the CONTRACTOR to restore the required limits. The CONTRACTOR shall also notify the AGENCY'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 CONTRACTOR resulting from any of the CONTRACTOR's work.

- (c) All insurance companies affording coverage to the CONTRACTOR 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 of Oceanside, its officers, agents, and employees shall be in excess only and not contributing with the insurance provided pursuant to this Section.
- (d) All insurance companies providing coverage under this agreement shall satisfy the following:
 - (1) FOR PROJECTS OF \$250,000 OR MORE
 - A California admitted company; or
 - A company rated as A-X or higher by A.M. Best
 - (2) FOR PROJECTS LESS THAN \$250,000
 - A California admitted company; or
 - A company rated as B or higher by A.M. Best
- (e) All insurance companies affording coverage shall provide thirty (30) day written notice to the City of Oceanside 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.
- (f) CONTRACTOR 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.
- (g) CONTRACTOR shall provide a substitute certificate of insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONTRACTOR to provide such a substitution and extend the policy expiration date shall be considered a default by CONTRACTOR and may subject the CONTRACTOR to a Stop Work Notice until the CONTRACTOR has cured the default.

- (h) Maintenance of insurance by the CONTRACTOR as specified in this Agreement shall in no way be interpreted as relieving the CONTRACTOR of any responsibility whatever and the CONTRACTOR may carry, at its own expense, such additional insurance as it deems necessary.

1.1.11 Contractor's Indemnification of Agency. CONTRACTOR shall indemnify and hold harmless the AGENCY and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct of the CONTRACTOR or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except only for those claims arising from the established sole or active negligence or sole willful misconduct of the AGENCY, its officers, agents, or employees. CONTRACTOR's indemnification shall include all claims for damages arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the work of any invention, design, process, product, or device not specified in the Contact Documents. CONTRACTOR's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the AGENCY, its officers, agents, or employees in enforcing the provisions of this subsection, and in defending against such claims, whether the same proceed to judgment or not. Further, CONTRACTOR at its own expense shall, upon written request by the AGENCY, defend any such suit or action brought against the AGENCY, its officers, agents, or employees.

1.1.12 Contractor's Guarantee. The CONTRACTOR hereby guarantees that the entire work performed and all materials, parts, and equipment furnished on this project by the CONTRACTOR, all subcontractors, suppliers and vendors shall meet all requirements of this contract as to the quality of materials, equipment, and workmanship during the Guarantee period. The Guarantee period shall begin on the date on which the work of improvement for this Public Works Agreement is accepted by the AGENCY, or the date of recordation of the Notice of Completion, whichever is earlier, and shall be in effect for three hundred and sixty five (365) days thereafter.

If the Engineer determines that any of the work performed, or any of the materials, parts or equipment furnished are defective, or have become defective, during the Guarantee period, the AGENCY shall have the unqualified option to make any needed replacements or repairs itself or to have such replacements or repairs performed by the CONTRACTOR. For the purposes of this Guarantee, the term "defective" shall mean any work performed, or any materials, parts, or equipment furnished which fails to be in a condition as originally intended in accordance with the Plans and Special Provisions, due to the negligent or intentional acts, errors or omissions of the CONTRACTOR.

If the AGENCY elects to have the needed replacements or repairs performed by the CONTRACTOR, and the Engineer gives written notice of this election to the CONTRACTOR, the CONTRACTOR agrees to perform the replacements or repair at no cost to the AGENCY within thirty (30) days after the date of the Engineer's written notice.

If the CONTRACTOR fails to perform within thirty (30) days after the date of the Engineer's written notice, or if the AGENCY elects to perform the needed replacements or repairs itself, the AGENCY shall be entitled to compensation from the CONTRACTOR for all costs and expenses reasonably incurred in restoring the work to the condition as originally intended, including the cost of any such equipment or materials replaced, the cost of removing and replacing any other work necessary, and attorneys' fees.

1.1.13 Assignment and Delegation. This Contract and any portion thereof shall not be assigned or transferred, nor shall any of the CONTRACTOR's duties be delegated, without the express written consent of the AGENCY. Any attempt to assign or delegate this contract without the express written consent of the AGENCY shall be void and of no force or effect. A consent by the AGENCY to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

1.1.14 Entire Agreement. The Contract Documents comprise the entire agreement between AGENCY and CONTRACTOR concerning the work to be performed for this project. The Contract Documents are complementary; what is called for in one is binding as if called for by all.

1.1.15 Interpretation of the Contract. The interpretation, validity and enforcement of this Contract shall be governed by and construed under the laws of the State of California. The Contract Documents do not limit any other rights or remedies available to AGENCY.

The Table of Contents and section and subsection headings contained in the Contract Documents are for convenience in reference and are not intended to define or limit the scope of any provision thereof.

Should any provision herein be found or deemed to be invalid, these Contract Documents 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 these Contract Documents are severable.

The CONTRACTOR shall be responsible for complying with all Local, State, and Federal laws whether or not said laws are expressly stated or referred to herein.

1.1.16 Contract Modification. This Contract may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

1.1.17 Waiver. No term or provision hereof shall be deemed waived and no default or breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented to such breach. The consent by any party

to, or waiver of, a breach or default by the other, shall not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach or default.

1.1.18 Signatures. The individuals executing this Public Works 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 CONTRACTOR and the AGENCY.

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

TO AGENCY:

Cari Dale, Director

Water Utilities Department

300 North Coast Highway

Oceanside, CA 92054

TO CONTRACTOR:

Paul Vadnais

Vadnais Corporation

2130 La Mirada Drive

Vista, CA 92081

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 of (i) actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or (ii) 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.

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 Public Works Agreement to be executed by setting hereunto their names, titles, hands, and seals this 8th day of February, 2011.

PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT (750810228)

Vadnais Corporation

City of Oceanside

By: [Signature]

By: [Signature]

Jeff Anderson, VP/Secretary

City Manager

By: _____

Date: 2-18-11

Date: February 8, 2011

Attest: City Clerk

123106

[Signature]
ASST.

City Business License No.

Approved as to Form:

95-2383867

City Attorney

Federal Employer I.D. No.

NOTARY ACKNOWLEDGEMENTS OF CONTRACTOR MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On 2/8/11 before me, Karlie Cristine Vigil, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Jeff Anderson
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 Karlie Cristine Vigil
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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

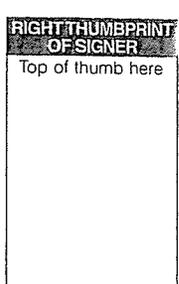
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

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 CONTRACT DOCUMENTS

SECTION 2: GENERAL PROVISIONS

**PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT
(750810228)**

2.1 PERMITS. Unless specifically stated otherwise in these Contract Documents, the CONTRACTOR shall, prior to the start of any work, obtain and pay all costs incurred for any and all permits, licenses, and other authorizations necessary to perform the work. The permits, licenses, and other authorizations which the CONTRACTOR shall obtain include, but are not necessarily limited to, the following: haul route permit, SWPPP permit; compliance with the Carlsbad HMP, insurance and bonds; construction water supply permit.

2.2 SUBMITTALS. The CONTRACTOR shall submit to the Engineer all shop drawings, samples, materials lists, equipment data, equipment and instruction manuals, record documents, and other submittals required by the Contract Documents, with reasonable promptness. In no event shall the CONTRACTOR make submittals later than thirty (30) days prior to the date by which the AGENCY's approval is required to commence work in accordance with the CONTRACTOR's construction schedule. The CONTRACTOR shall submit complete assembly, lay out, and setting drawings for each item of material to be fabricated or manufactured to specifically fit or otherwise meet the requirements of the Contract Documents.

When submittals are required by these Contract Documents, or requested by the Engineer, the CONTRACTOR shall prepare the submittal in accordance with current modern engineering practices and at the CONTRACTOR's expense. Drawings shall be of a size and scale to show clearly all necessary details. Each drawing shall be a good quality transparency, accompanied by two (2) prints. The submittals shall be delivered to the Engineer in a format acceptable to the Engineer.

The CONTRACTOR shall give written notice, with all submittals, of any deviation from the requirements of the Contract Documents. The deviations shall be clearly indicated or described including all other changes required to coordinate the Work. Any claim or dispute by the CONTRACTOR shall be submitted to the Engineer in accordance with Subsection 2.22.

The Engineer shall review each submittal and either approve, approve with exceptions noted, or reject the submittal.

If approved, the original shall be retained by the Engineer, and the Engineer shall furnish the CONTRACTOR with an approved copy of the submittal. Approval of submittals by the Engineer shall not relieve the CONTRACTOR from responsibility for

errors or omissions in the submittals. If rejected, the original shall be returned to the CONTRACTOR with a marked-up copy indicating corrections to be made for resubmittal by the CONTRACTOR.

The CONTRACTOR shall allow for at least thirty (30) working days for review of submittals by the Engineer, and shall allow for no more than fifteen (15) working days for correction and resubmittal, by the CONTRACTOR, of rejected submittals.

The CONTRACTOR shall not proceed with the ordering of fabrication, delivery, or installation of any work for which submittals are required, prior to approval of the submittal by the Engineer.

2.3 PLANS AND SPECIAL PROVISIONS. The CONTRACTOR shall maintain a control copy of the Contract Documents, including all modifications and all as-built conditions which deviate from the plans or specifications, on the Project Site at all times, to which the Engineer shall have access at all times.

The Contract Documents are intended to describe a functionally complete project, and the AGENCY has endeavored to include in the Contract Documents information pertaining to conditions which may affect the cost of the work. However, the AGENCY does not warrant the completeness or accuracy of such information, and the AGENCY disclaims responsibility for the completeness or accuracy of such information. The CONTRACTOR shall be responsible for making reasonable examinations of the site, including field measurements, and the Contract Documents throughout the term of this project, in order to ascertain the existence of any site condition or apparent error or omission in the Contract Documents which could interfere with the satisfactory completion of the work, or which could affect the cost of the work.

If the CONTRACTOR is in doubt as to the meaning of any part of the Plans, Special Provisions, or other Contract Documents, or if the CONTRACTOR discovers any apparent error or omission in the Contract Documents, the CONTRACTOR shall promptly notify the Engineer in writing.

The CONTRACTOR shall, upon discovering any existing condition at the site which is not set forth in the Contract Documents and which is not defined as a changed condition as set forth below, but which could reasonably be assumed to interfere with the satisfactory completion of the work, promptly notify the Engineer and take such action which is reasonably necessary to perform the work.

The Engineer shall promptly investigate the conditions set forth in any notice submitted by the CONTRACTOR pursuant to this subsection. The Engineer shall respond in writing with a clarification or interpretation which is consistent with or reasonably inferable from the overall intent of the Contract Documents.

Any claim or dispute by the CONTRACTOR shall be submitted to the Engineer in accordance with Subsection 2.22.

2.3.1 CONFORMED PLANS AND SPECIFICATIONS.

The AGENCY may, at its option, provide the CONTRACTOR with a conformed set of plans and specifications with the changes made by the bid addenda. CONTRACTOR shall review the conformed plans and specifications to verify whether they accurately reflect the addenda, and shall notify the AGENCY within 21 working days of any apparent discrepancies. Each item in the conformed plans and specification shall thereafter be deemed to be consistent with the bid plans and specifications and all addenda unless the CONTRACTOR takes exception to it with 21 working days by explaining why an item is at variance with the bid documents. The AGENCY may give conformed plans and specifications to the CONTRACTOR multiple times, in whole or in sections, throughout the construction, and a separate 21 working day comment period applies to each portion when provided to the CONTRACTOR.

2.4 CHANGED CONDITIONS.

2.4.1 The CONTRACTOR shall promptly notify the AGENCY in writing of any of the following “changed conditions” before the conditions are disturbed:

- (a) Material that the CONTRACTOR believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class 1, Class II, or Class III disposal site in accordance with provisions of existing law.
- (b) Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents.
- (c) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

2.4.2 The Engineer shall promptly investigate the conditions set forth in the CONTRACTOR’s notice. If the Engineer determines that there is a changed condition which causes a decrease or increase in the CONTRACTOR’s cost of, or the time required for, performance of any part of the work, a change order shall be issued in accordance with the procedures set forth in Subsection 2.21. If the Engineer determines that the conditions set forth in the CONTRACTOR’s notice do not entitle the CONTRACTOR to a change order, then the CONTRACTOR will be advised of the determination in writing.

2.4.3 In the event that a dispute arises between the AGENCY and the CONTRACTOR as to whether there is a changed condition which entitles the CONTRACTOR to a change order, the CONTRACTOR shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall proceed with all work to be performed under the Contract Documents in accordance with the Disputed Work provisions set forth in Subsection 2.22. Any claim or dispute by the CONTRACTOR shall be submitted to the Engineer in accordance with Subsection 2.22. The

CONTRACTOR shall retain any and all rights provided by law which pertain to the resolution of disputes and protests between the AGENCY and the CONTRACTOR.

2.5 UTILITIES. The CONTRACTOR shall comply with all requirements for the Protection of Underground Infrastructure as set forth in Government Code Sections 4215 – 4217.

2.5.1 Location of Utilities. The location and existence of substructures were determined from a search of records maintained by their owners. However, the AGENCY does not warrant the completeness or accuracy of this information, and the AGENCY disclaims responsibility for the completeness or accuracy of such information.

The CONTRACTOR shall locate and protect service laterals, conduits, and appurtenances of any underground facility, the presence of which could reasonably be inferred from the presence of visible facilities such as buildings, meters, and junction boxes, prior to doing any work that may damage any such facilities, or interfere with their service.

Where underground main distribution conduits such as water, gas, sewer, electric power, telephone or cable television are shown on the Plans, the CONTRACTOR, for the purpose of preparing a Bid, shall assume that every property parcel will be served by a service connection for each type of utility.

If the CONTRACTOR, while performing the contract, discovers utility facilities not identified by the AGENCY in the contract plans or specifications, it shall immediately notify the Engineer and utility in writing.

The Engineer shall promptly investigate the conditions set forth in any notice submitted by the CONTRACTOR pursuant to this Subsection 2.5. The Engineer shall respond in writing in one of the following ways: a notice of the AGENCY's intent to perform any necessary work itself, a clarification or interpretation which is consistent with or reasonably inferable from the overall intent of the Contract Documents, or a change order. Any claim or dispute by the CONTRACTOR shall be submitted to the Engineer in accordance with Subsection 2.22.

Pursuant to Government Code Section 4215, the AGENCY shall assume responsibility for the cost of the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the construction site subject to this contract, if such utilities are not identified by the AGENCY in the plans and specifications made a part of the Contract Documents. The CONTRACTOR shall be compensated, in accordance with Subsection 2.21, for the costs of locating and repairing damage not due to the failure of the CONTRACTOR to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Contract Documents with reasonable accuracy, and for equipment on the project necessarily idled during such work. The CONTRACTOR shall not be assessed liquidated damages for delay in completion of the project, when such

delay was caused by the failure of the AGENCY or the owner of the utility to provide for removal or relocation of such utility facilities.

2.5.2 Notifications to Utility Owners. As provided in Section 4216 of the Government Code, at least two (2) working days prior to commencing any excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations, the CONTRACTOR shall contact the regional notification center (Underground Service Alert of Southern California) at 1-800-227-2600 and obtain an inquiry identification number. The CONTRACTOR shall delineate the area to be excavated, in accordance with Government Code Section 4216.2, using a marking which has been approved by the Engineer. The CONTRACTOR shall remove all markouts, whether placed by his crews or Underground Service Alert, within thirty (30) days of completion of the excavation work or when the markouts are no longer needed.

The CONTRACTOR shall also contact Caltrans for location of its subsurface installations. In addition, the CONTRACTOR shall notify the owners of all utilities and substructures not less than forty-eight (48) hours prior to working in the vicinity of any such facility.

The CONTRACTOR shall determine the location and depth of all utilities, including service connections, which have been marked by the respective owners and which may affect or be affected by its operations. If no pay item is provided in the Contract for this work, full compensation for such work shall be considered as included in the prices bid for other items of work.

Any list of names and telephone numbers for utility or substructure owners shown on the Plans or in any other Contract Document is intended for the convenience of the CONTRACTOR and is not guaranteed to be complete or correct.

2.5.3 Protection of Utilities. The CONTRACTOR shall not interrupt the service function or disturb the support of any utility, such as the base and thrust blocks, without authority from the owner or order from the AGENCY. All valves, switches, vaults, and meters shall be maintained readily accessible for emergency shutoff.

Where protection is required to ensure support of utilities located by the AGENCY in accordance with the Contract Documents, the CONTRACTOR shall, unless otherwise provided, furnish and place the necessary protection at its expense.

The CONTRACTOR shall immediately notify the Engineer and the utility owner if any utility is disturbed or damaged. The CONTRACTOR shall bear the costs of repair or replacement of any utility damaged if located by the AGENCY in accordance with the Contract Documents.

When placing concrete around or contiguous to any non-metallic utility installation, the CONTRACTOR at its expense, shall:

- (a) Furnish and install a two inch (2") cushion expansion joint material or other similar resilient material ; or
- (b) Provide a sleeve or other opening which will result in a two inch (2") minimum clear annular space between the concrete and the utility; or
- (c) Provide other acceptable means to prevent embedment in or bonding to the concrete.

Where concrete is used for backfill or for structures which would result in embedment, or partial embedment, of a metallic utility installation; or where the coating, bedding or other cathodic protection system is exposed or damaged by the CONTRACTOR's operations or as may be required by the Work, the CONTRACTOR shall notify the Engineer and arrange to secure the advice of the affected utility owner regarding the procedures required to maintain or restore the integrity of the system.

2.5.4 Removal of Utilities. Unless otherwise specified, the CONTRACTOR shall remove all interfering portions of utilities shown on the Plans, or indicated in the Contract Documents as "abandoned" or "to be abandoned in place." Before starting removal operations, the CONTRACTOR shall ascertain from the AGENCY whether the abandonment is complete, and the costs involved in the removal and disposal shall be included in the Contract Price for the items of work necessitating such removals.

2.5.5 Relocation of Utilities. When feasible, the owners responsible for utilities within the area affected by the Work will complete their necessary installations, relocations, repairs or replacements before commencement of work by the CONTRACTOR. When the Contract Documents indicate that a utility installation is to be relocated, altered or constructed by others, the AGENCY will conduct all negotiations with the owners and the work will be done at no cost to the CONTRACTOR, except as otherwise provided in the Contract Documents. Utilities which are relocated in order to avoid interference with the proposed permanent work shall be protected in their relocated position at the CONTRACTOR's cost.

When the Contract Documents provide for the CONTRACTOR to alter, relocate, or reconstruct a utility, all costs for such work shall be included in the Contract Price for the items of work necessitating such work. Temporary or permanent relocation or alteration of utilities requested by the CONTRACTOR for its convenience shall be its responsibility, and it shall make all arrangements and bear all costs.

The utility owner will relocate service connections as necessary within the limits of the Work or within temporary construction or slope easements unless otherwise specified. When directed by the Engineer, the CONTRACTOR shall arrange for the relocation of service connections as necessary between the meter and property line, or between a meter and the limits of temporary construction or slope easements. The relocation of such service connections will be paid for by the AGENCY in accordance with Subsection 2.21. Payment will include the restoration of all existing improvements which may be affected thereby.

2.5.6 Cooperation. When necessary, the CONTRACTOR shall so conduct its operations as to permit access to the worksite and provide time for utility work to be accomplished during the progress of the Work.

2.6 SITE ACCESS. The AGENCY shall provide the CONTRACTOR with access to the Project Site. All actions performed by the CONTRACTOR outside of the Project Site shall be the responsibility of the CONTRACTOR and at the CONTRACTOR's cost.

2.7 SURVEYING.

2.7.1 Permanent Survey Markers and Lot Stakes. The CONTRACTOR shall notify the Engineer in writing at least seven (7) days before starting Work in order that the Engineer may take necessary measures to ensure the preservation of survey monuments, bench marks, and lot stakes. The CONTRACTOR shall preserve and shall not disturb permanent survey monuments, bench marks, or lot stakes unless otherwise authorized in writing by the Engineer. The CONTRACTOR shall bear the expense of replacing any such markers that may be disturbed without authorization. Replacement shall be done by the AGENCY or the CONTRACTOR, at the Engineer's discretion and in accordance with written notice thereof.

Replacements by the CONTRACTOR shall be made by a Civil Engineer or Land Surveyor registered in the State of California.

When a change is made in the finished elevation of the pavement of any roadway in which a permanent survey monument is located, the CONTRACTOR shall adjust the monument cover to the new grade at the CONTRACTOR's expense unless otherwise specified in the Contract Documents.

2.7.2 Survey Service. The AGENCY shall perform and be responsible for the accuracy of surveying adequate for construction. The CONTRACTOR shall preserve and shall not disturb construction survey stakes and marks unless otherwise authorized in writing by the Engineer. The CONTRACTOR shall bear the expense of replacing any such markers that are disturbed without authorization. Replacement shall be done by the AGENCY or the CONTRACTOR at the Engineer's discretion and in accordance with written notice thereof.

The CONTRACTOR shall notify the Engineer in writing at least two (2) working days before survey services will be required in connection with the laying out of any portion of the Work. The CONTRACTOR shall dig all holes necessary for line and grade stakes.

Unless otherwise specified, stakes will be set and stationed by the AGENCY for curbs, headers, sewers, storm drains, structures, and rough grade and a corresponding cut or fill to finished grade (or flowline) indicated on a grade sheet.

2.7.3 Line and Grade. All work shall conform to the lines, elevations, and grades shown in the Plans and other Contract Documents.

Three (3) consecutive points set on the same slope shall be used together so that any variation from a straight grade can be detected. Any such variation shall be reported to the Engineer. In the absence of such report, the CONTRACTOR shall be responsible for any error in the grade of the finished work.

Grades for underground conduits will be set at the surface of the ground. The CONTRACTOR shall transfer them to the bottom of the trench.

2.8 CONTRACTOR'S CONTROL OF THE SITE. The requirements set forth in this Section, and Subsection, and in these entire Contract Documents are in addition to those imposed by Federal, State, and Local Law, and shall in no way relieve the CONTRACTOR of its obligations under law. The CONTRACTOR's compliance with Local law shall include but not be limited to, the City Grading Ordinance and Urban Runoff Regulations (Chapter 40 of the City Code).

2.8.1 Noise. The CONTRACTOR shall ensure that the noise level is not greater than 86 dba at a distance of fifty feet (50') unless otherwise authorized by the Engineer, or unless necessary for the safety of persons at the site.

2.8.2 Cleanup and Dust Control. Throughout all phases of construction, including suspension of work, and until final acceptance of the project, the CONTRACTOR shall keep the worksite clean and free from waste matter, rubbish, and debris. The CONTRACTOR shall also abate dust nuisance by cleaning, sweeping, and sprinkling with water, or other means as necessary. Any mud or other debris which results from CONTRACTOR's abatement of dust shall be cleaned by the CONTRACTOR.

When required, by the Engineer, the CONTRACTOR shall furnish and operate a self-loading motor sweeper with spray nozzles at least once each working day to keep paved areas acceptably clean wherever construction, including restoration, is incomplete.

No materials or equipment shall be stored onsite in excess of five (5) days prior to installation or continuous use unless otherwise approved in writing by the Engineer. All materials and equipment not installed or used in the Work shall be removed from the site within five (5) days after no longer needed for the Work, and stored offsite at the CONTRACTOR's expense unless otherwise approved in writing by the Engineer.

Upon completion of the Work, and before final inspection, the entire worksite shall be cleared of equipment, unused materials, and rubbish so as to present a clean and neat appearance to the satisfaction of the Engineer.

Care shall be taken by the CONTRACTOR to prevent spillage on haul routes. Any such spillage shall be removed immediately and the area cleaned by the CONTRACTOR.

Excess excavated material from catch basins or similar structures shall be removed from the site immediately. Sufficient material may remain for use as backfill if permitted by the Contract Documents. Forms and form lumber shall be removed from the site as soon as practicable after stripping.

2.8.3 Air Pollution Control. The CONTRACTOR shall report in writing to the Engineer, to the San Diego Air Pollution Control District, and to the Regional Office of the Environmental Protection Agency any discharge of smoke, dust, or any other air contaminants which are a violation of Federal, State, or Local law.

2.8.4 Vermin Control. At the time of acceptance, structures entirely constructed under the Contract shall be free of rodents, insects, vermin and pests. Necessary extermination work shall be arranged and paid for by the CONTRACTOR as part of the Work within the Contract time and shall be performed by a licensed exterminator in accordance with requirements of law. The CONTRACTOR shall be responsible for any injury to persons or property, and for the elimination of offensive odors resulting from extermination operations.

2.8.5 Sanitation. The CONTRACTOR shall provide and maintain enclosed toilets for the use of persons engaged in the Work. These accommodations shall be maintained in a neat and sanitary condition.

Wastewater shall not be interrupted. Should the CONTRACTOR disrupt existing sewer facilities, sewage shall be conveyed in closed conduits and disposed of in a sanitary sewer system. Sewage shall not be permitted to flow in trenches or be covered by backfill.

2.8.6 Temporary Light, Power, and Water. The CONTRACTOR shall at its own expense, furnish, install, maintain, and remove all temporary light, power, and water, including piping, wiring, lamps, and other equipment, necessary for the Work. The CONTRACTOR shall not draw water from any fire hydrant, except to extinguish a fire, without first obtaining permission from the applicable water agency. When water is required from a fire hydrant or blowoff, the CONTRACTOR shall apply for a water meter with a permit from the City of Oceanside Water Utilities Department.

2.8.7 Water Pollution Control. The CONTRACTOR shall exercise every reasonable precaution to protect channels, storm drains, and bodies of water from pollution and shall conduct and schedule its operations so as to minimize or avoid discharge of pollutants including, but not limited to, sediment to said channels, drains, and waters. Water pollution Best Management Practice (BMPs) shall include construction of those structural and non-structural BMPs which may be required to provide prevention, control, and abatement of water pollution. The CONTRACTOR shall comply with all reporting requirements to the Engineer, the San Diego Regional Quality Control Board, and to the Regional Office of the Environmental Protection Agency, for any violation of Federal, State or Local law.

2.8.8 Drainage and Erosion Control. The CONTRACTOR shall maintain drainage within and through the work areas. Earth dams will not be permitted in paved areas. Temporary dams of sandbags, asphaltic concrete or other acceptable material will be permitted when necessary to protect the Work, provided their use does not create a hazard or nuisance to the public. Such dams shall be removed from the site as soon as their use is no longer necessary.

2.8.9 Advertising. The names of contractors, subcontractors, architects, or engineers, with their addresses and the designation of their particular specialties, may be displayed on removable signs only if prior written approval is received from the Engineer.

Commercial advertising matter shall not be attached to or painted on the surfaces of buildings, fences, canopies, or barricades.

2.9 COOPERATION AND COLLATERAL WORK. The CONTRACTOR shall be responsible for ascertaining the nature and extent of any simultaneous, collateral and essential work by others. The AGENCY, its workers and contractors, and others, shall have the right to operate within or adjacent to the worksite to perform such work.

The AGENCY, the CONTRACTOR, and each of such workers, contractors, and others, shall coordinate their operations and cooperate to minimize interference.

The CONTRACTOR shall include in its Bid all costs involved as a result of coordinating its work with others. The CONTRACTOR will not be entitled to additional compensation from the AGENCY for damages resulting from such simultaneous, collateral and essential work. If necessary to avoid or minimize such damage, or delay, the CONTRACTOR shall redeploy its workforce to other parts of the Work.

2.10 SITE SAFETY AND PROTECTION OF IMPROVEMENTS.

2.10.1 The CONTRACTOR shall initiate, maintain, and supervise all safety precautions and programs in connection with the work which are necessary to prevent damage, or injury to, or loss of the following:

- (a) Any employees, laborers, suppliers, other persons on the work, and other persons and organizations who may be affected thereby;
- (b) Any work and materials and equipment incorporated in the project, or to be incorporated therein, whether in storage on or off the site;
- (c) Any personal property of the CONTRACTOR or the CONTRACTOR's agents;
- (d) Other property at the site or adjacent thereto (both public and private) which is not designated for removal, relocation or replacement in the course of construction, including trees, shrubs, lawn, walks, pavements, roadways, structures, utilities, and underground facilities.

2.10.2 The CONTRACTOR shall be responsible for any of the above described damage, injury, or loss arising out of the nature of the work, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the AGENCY, except as is otherwise provided in California Public Contract Code Section 7105.

2.10.3 In the event of an occurrence of one of the above described damage, injury, or loss to public property or other property to be incorporated into the project, the CONTRACTOR shall repair or replace the damage, injury, or loss at the CONTRACTOR's cost, and to the satisfaction of the Engineer. Repairs and replacements shall be at least equal in quality to existing improvements, and shall match them in finish and dimension.

2.10.4 The CONTRACTOR shall give reasonable notice to occupants or owners of adjacent property with improvements (including trees, plants, fences, irrigation, and other improvements) which may be adversely impacted by the CONTRACTOR's work. The CONTRACTOR shall repair or replace any damage, injury, or loss to private improvements on adjacent property at the CONTRACTOR's expense and to the satisfaction of the property owner and occupant as well as the Engineer.

2.10.5 Safety Orders. The CONTRACTOR shall have at the worksite, copies of: *Construction Safety Orders, Tunnel Safety Orders, and General Industry Safety Orders* issued by the State Division of Industrial Safety. The CONTRACTOR shall comply with provisions of these and all other applicable laws, ordinances, and regulations.

Before excavating any trench five feet (5') or more in depth, the CONTRACTOR shall submit to the AGENCY a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for the workers' protection from the hazard of caving ground during the excavation of such trench. If the plan varies from the shoring system standards, the plan shall be prepared by a registered Civil Engineer. No excavation shall start until the Engineer has accepted the plan, the CONTRACTOR has obtained a permit from the State Division of Industrial Safety, and a copy of the permit has been received by the Engineer. Nothing in this section shall be construed to impose forth liability on the AGENCY or any of its employees.

2.10.6 Use of Explosives. Explosives may be used only when authorized in writing by the Engineer, or as otherwise stated in the Specifications. Explosives shall be handled, used, and stored in accordance with all applicable regulations. The Engineer's approval of the use of explosives shall not relieve the CONTRACTOR from liability for claims caused by blasting operations.

2.10.7 Special Hazardous Substances and Processes. Materials that contain hazardous substances or mixtures may be required on the Work. A Material Safety Data Sheet as described in Section 5194 of the California Administrative Code shall be requested by the CONTRACTOR from the manufacturer of any hazardous product used.

Material usage shall be accomplished with strict adherence to California Division of Industrial Safety requirements and all manufacturers' warnings and application instructions listed on the Material Safety Data Sheet and on the product container label.

The CONTRACTOR shall notify the Engineer if a specified product cannot be used under safe conditions.

2.11 TRAFFIC CONTROL.

2.11.1 Vehicular and Pedestrian Access. The CONTRACTOR's operations shall cause no unnecessary inconvenience to the public, including trash, mail, and other services provided to the public over AGENCY rights-of-way. The access rights of the public shall be considered at all times, and vehicular and pedestrian traffic shall be permitted to pass on public rights-of-way through the Work at all times, unless the CONTRACTOR receives prior written approval of a detour plan from the Engineer. The CONTRACTOR shall provide at least seventy-two (72) hours written notice to the Engineer requesting approval of a detour plan, prior to the performance of any work or the establishment of any detour or closure in the public right-of-way. The CONTRACTOR shall notify the occupants or owners of all affected properties at least forty-eight (48) hours prior to any temporary obstruction of access.

Safe and adequate pedestrian and vehicular access shall be provided and maintained to fire hydrants, commercial and industrial establishments, churches, schools, parking lots, service stations, motels, fire and police stations, hospitals, and establishments of similar nature. Access to these facilities shall be continuous and unobstructed unless prior approval of a detour plan is received from the Engineer.

Safe and adequate pedestrian zones and public transportation stops, as well as pedestrian crossings of the Work at intervals not exceeding 300 feet (90m), also shall be maintained unless prior approval of a detour plan is received from the Engineer.

Vehicular access to residential driveways shall be maintained to the property line unless prior approval of a detour plan is received from the Engineer.

The CONTRACTOR shall cooperate with owners and occupants of affected properties as well as other parties involved in providing services to the public (trash collection, mail delivery, etc.), in order to maintain existing schedules for these services.

Grading operations, roadway excavation and fill construction shall be conducted by the CONTRACTOR in a manner to provide a reasonably satisfactory surface for traffic. When rough grading is completed, the roadbed surface shall be brought to a smooth, even condition satisfactory for traffic.

Unless otherwise authorized, work shall be performed in only one-half of the roadway at one time. One-half shall be kept open and unobstructed until the opposite side is ready

for use. If one-half of a street is being improved, the other half shall be conditioned and maintained as a detour.

2.11.2 Detour Plans. In the event that the CONTRACTOR submits a detour plan and receives approval from the Engineer, the CONTRACTOR shall perform in accordance with the approved detour plan, which shall include, at a minimum the following requirements:

At least one twelve-foot (12') wide traffic lane shall be provided for each direction of travel on all streets at all times. The traffic lanes shall be maintained on pavement, and shall remain unobstructed. Lane transitions shall not be sharper than a taper of thirty to one (30:1).

Clearances from traffic lanes shall be five feet (5') to the edge of any excavation and two feet (2') to the face of any curb, pole, barricade, delineator, or other vertical obstruction.

One four foot (4') wide paved pedestrian walkway shall be maintained in the parkway area on each side of all streets. The clearance from the pedestrian walkway to any traffic lane shall be five feet (5').

Traffic control warning signs, lights, and devices shall conform to the California Department of Transportation, Caltrans 1990 Traffic Control Manual.

The CONTRACTOR shall provide barriers, guards, lights, signs, temporary bridges, flagpersons and watchpersons, advising the public of detours and construction hazards. The CONTRACTOR shall also be responsible for compliance with additional public safety requirements which may arise during construction. The CONTRACTOR shall furnish and install, and upon completion of the Work, promptly remove all signs and warning devices.

At least forty-eight (48) hours in advance of closing, or partially closing, or of reopening, any street, alley, or other public thoroughfare, the CONTRACTOR shall notify the Police, Fire, Traffic and Engineering Departments of jurisdictional agencies involved, and comply with their requirements. Deviations must first be approved in writing by the Engineer.

The CONTRACTOR shall secure approval, in advance, from authorities concerned, for the use of any bridges proposed by it for public use. Temporary bridges shall be clearly posted as to load limit, with signs and posting conforming to current requirements set forth in the Traffic Manual published by the California Department of Transportation, covering "signs." This manual shall also apply to the street closures, barricades, detours, lights, and other safety devices required.

Temporary traffic channelization shall be accomplished with barricades or delineators. Temporary striping will not be allowed unless specifically permitted by the Engineer.

The CONTRACTOR shall prepare any plans that may be required for temporary striping to the satisfaction of the Engineer. In no event will temporary striping on pavement surfaces be allowed to remain.

2.11.3 Storage of Equipment and Materials in Public Streets. Construction equipment and materials (including excavated materials) shall not be stored in streets, roads, or highways without the prior written approval of the Engineer.

2.11.4 Haul Route. The CONTRACTOR shall receive written approval of its haul route from the Engineer, prior to hauling any dirt, construction materials, or construction waste over AGENCY rights-of-way.

2.12 CONTROL OF MATERIALS. The CONTRACTOR shall ensure that all materials, parts and equipment furnished for the project shall be new, high grade, and free from defects. Used or secondhand materials, parts, and equipment may be used only if specifically permitted in the Special Provisions. Quality of work shall be in accord with the generally accepted standards unless otherwise specifically set forth in the Contract Documents. Materials and work quality shall be subject to the Engineer's approval.

Before ordering any materials or performing any work, the CONTRACTOR shall verify all measurements, dimensions, elevations, and quantities.

Materials and work quality not conforming to the requirements of the Contract Documents shall be considered defective and will be subject to rejection. Defective work or material, whether in place or not, shall be removed immediately from the site by the CONTRACTOR, at its expense, when so directed by the Engineer.

If the CONTRACTOR fails to replace, repair, or restore any defective or damaged work or material within ten (10) working days after the date of the Engineer's written notice, the Engineer may, but shall not be obligated to, cause such work or materials to be replaced at the CONTRACTOR's expense. The replacement expense shall be deducted from the amount to be paid to the CONTRACTOR. If payments then or thereafter due the CONTRACTOR are not sufficient to cover such expenses, the CONTRACTOR shall pay the difference to the AGENCY.

Materials and equipment shall be stored so as to ensure the preservation of their quality and fitness for the project. Stored materials and equipment to be incorporated in the project shall be located so as to facilitate prompt inspection.

The CONTRACTOR shall be responsible for taking any and all actions necessary to protect supplies, materials, equipment, and personal property of CONTRACTOR and CONTRACTOR's agents from loss, damage, or theft.

2.13 INSPECTION OF MATERIALS AND EQUIPMENT.

2.13.1 General. Unless otherwise specified, inspection is required at the source for such typical materials and fabricated items as bituminous paving mixtures, structural concrete, metal fabrication, metal casting, welding, concrete pipe manufacture, protective coating application, and similar shop or plant operations. Steel pipe in sizes less than eighteen (18") inches vitrified clay, asbestos-cement and cast iron pipe in all sizes are acceptable upon certification as to compliance with the Specifications, subject to sampling and testing by the AGENCY. Standard items of equipment such as electric motors, conveyors, elevators, plumbing fixtures, etc., are subject to inspection at the jobsite only. Special items of equipment such as designed electrical panel boards, large pumps, sewage plant equipment, etc., are subject to inspection at the source, normally only for performance testing. The Specifications may require inspection at the source for other items not typical of those listed in this subsection.

2.13.2 Inspection of Materials Not Locally Produced. When the CONTRACTOR intends to purchase materials, fabricated products, or equipment from sources located more than fifty (50) miles outside the geographical limits of the AGENCY, an inspector or accredited testing laboratory, approved by the Engineer, shall be engaged by the CONTRACTOR at its expense, to inspect the materials, equipment or process. This approval shall be obtained before producing any material or equipment. The inspector or representative of the testing laboratory shall judge the materials by the requirements of the Plans and Specifications. The CONTRACTOR shall forward reports required by the Engineer. No materials or equipment shall be shipped nor shall any processing, fabrication or treatment of such materials be done without proper inspection by the approved inspector. Approval by said inspector shall not relieve the CONTRACTOR of responsibility for complying with the Contract documents.

2.13.3 Inspection by the AGENCY. The AGENCY will provide all inspection and testing laboratory services within fifty (50) miles of the geographical limits of the AGENCY.

2.13.4 Test of Materials. Before incorporation in the Work, the CONTRACTOR shall submit samples of materials, as the Engineer may require, at no cost to the AGENCY. The CONTRACTOR, at its expense, shall deliver the materials for testing to the place and at the time designated by the Engineer. Unless otherwise provided, all initial testing and a reasonable amount of retesting shall be performed under the direction of the Engineer, and at no expense to the CONTRACTOR. If the CONTRACTOR is to provide and pay for testing, the Specifications will so state.

The CONTRACTOR shall notify the Engineer in writing, at least fifteen (15) days in advance, of its intention to use materials for which tests are specified, to allow sufficient time to perform the tests. The notice shall name the proposed supplier and source of material.

If the notice of intent to use is sent before the materials are available for testing or inspection, or is sent so far in advance that the materials on hand at the time will not last but will be replaced by a new lot prior to use on the Work, it will be the CONTRACTOR's

responsibility to renotify the Engineer when samples which are representative may be obtained.

2.13.5 Certification. The Engineer may waive materials testing requirements of the Specifications and accept the manufacturer's written certification that the materials to be supplied meet those requirements. Materials test data may be required as part of the certification.

2.13.6 Weighing Equipment. All scales used for proportioning materials shall be inspected for accuracy and certified within the past twelve (12) months by the State of California Bureau of Weights and Measures, by the County Director or Sealer of Weights and Measures, or by a scale mechanic registered with or licensed by the County.

The accuracy of the work of a scale service agency, except as stated herein, shall meet the standards of the California Business and Professions Code and the California Administrative Code pertaining to weighing devices. A certificate of compliance shall be presented, prior to operation, to the Engineer for approval and shall be renewed whenever required by the Engineer at no cost to the AGENCY.

All scales shall be so arranged that they may be read easily from the operator's platform or area. They shall indicate the true net weight without the application of any factor. The figures of the scales shall be clearly legible. Scales shall be accurate to within one percent (1%) when tested with the plant shut down. Weighing equipment shall be so insulated against vibration or moving of other operating equipment in the plant area that the error in weighing with the entire plant running will not exceed two percent (2%) for any setting nor one and a half percent (1½%) for any batch.

2.13.7 Calibration of Testing Equipment. Testing equipment, such as, but not limited to pressure gages, metering devices, hydraulic systems, force (load)-measuring instruments, and strain measuring devices shall be calibrated by a testing agency acceptable to the Engineer at intervals not to exceed twelve (12) months and following repairs, modification, or relocation of the equipment. Calibration certificates shall be provided when requested by the Engineer.

2.14 INSPECTION. The Work is subject to inspection and approval by the Engineer. The CONTRACTOR shall notify the Engineer before 12:00 p.m. of the working day before inspection is required. Unless otherwise authorized, work shall be done only in the presence of the Engineer or an authorized representative. Any work done without proper inspection will be subject to rejection. The Engineer and any authorized representatives shall at all times have access to the work during its construction at shops and yards as well as the project site. The CONTRACTOR shall provide every reasonable facility for ascertaining that the materials and workmanship are in accordance with these specifications. Inspection of the work shall not relieve the CONTRACTOR of the obligation to fulfill all conditions of the Contract.

The CONTRACTOR shall be responsible for cutting, fitting, or patching required to complete the work or to make its parts fit together properly.

If inspections indicate that any portion of the work does not meet the requirements specified in the Contract Documents, the CONTRACTOR shall rework that portion until the requirements are attained to the satisfaction of the Engineer. Inspection of areas which have not met the requirements will be performed by the Engineer at the CONTRACTOR's expense.

2.15 MONTHLY PROGRESS REPORTS. The CONTRACTOR shall submit monthly Progress Reports to the Engineer on or before the monthly submittal date. The monthly submittal date shall be established at the preconstruction meeting. The report shall include an updated Construction Schedule. Any deviations from the original schedule shall be explained. Progress payments may be withheld pending receipt of any outstanding reports.

If the CONTRACTOR desires to make a major change in the method of operations after commencing construction, or if the schedule fails to reflect the actual progress, the CONTRACTOR shall submit to the Engineer a revised construction schedule in advance of beginning revised operations.

2.16 MEASUREMENT OF WORK.

2.16.1 General. Unless otherwise specified, quantities of work shall be determined from measurements or dimensions in horizontal planes, however, linear quantities of pipe, piling, fencing, and timber shall be considered as being the true length measured along the longitudinal axis.

Unless otherwise provided in the Specifications, volumetric quantities shall be the product of the mean area of vertical or horizontal sections and the intervening horizontal or vertical dimension. The planimeter shall be considered as the instrument of precision adapted to the measurement of all areas.

Materials and equipment delivered but not incorporated into the Work shall be included in the estimate for progress payment.

2.16.2 Methods of Measurement. Materials and items of work which are to be paid for on the basis of measurement shall be measured in accordance with the methods stipulated in the particular sections involved.

2.16.3 Certified Weights. When payment is to be made on the basis of weight, the weighing shall be done on certified platform scales or, when approved by the Engineer, on a completely automated weighing and recording system. The CONTRACTOR shall furnish the Engineer with duplicate licensed weighmaster's certificates showing the actual net weights. The AGENCY will accept the certificates as evidence of the weights delivered.

2.16.4 Units of Measurements. Measurements shall be in accordance with U.S. Standard Measures. A pound is an avoirdupois pound. A ton is 2,000 pounds avoirdupois. The unit of liquid measure is the U.S. gallon.

2.16.5 Lump Sum Work. Items for which quantities are indicated as “lump sum”, L.S. or “Job” shall be paid for at the price indicated in the Bid Schedule. Such payment shall be full compensation for the items of work and all work appurtenant thereto. When required by the Specifications or requested by the Engineer, the CONTRACTOR shall submit to the Engineer within fifteen (15) days after award of contract, a detailed schedule in triplicate, to be used only as a basis for determining progress payments on a lump sum contract or any designated lump sum bid item. This schedule shall equal in total the lump sum bid and shall be in such form and sufficiently detailed as to satisfy the Engineer that it correctly represents a reasonable apportionment of the lump sum.

2.16.6 Mobilization. When a bid item is included in the Proposal form for mobilization and subject to the conditions and limitations in the Specifications, the costs of work in advance of construction operations and not directly attributable to any specific bid item will be included in the progress estimate. When no such bid item is provided, payment for such costs will be considered to be included in the other items of work.

2.17 PROGRESS PAYMENTS.

2.17.1 Requests for Payment. The CONTRACTOR shall submit written requests for monthly progress payments to the Engineer on or before the monthly submittal date. The monthly submittal date shall be established at the preconstruction meeting.

Each month, the CONTRACTOR shall make an approximate measurement of the work performed as of the monthly submittal date, as a basis for making the monthly request for progress payments. The City Engineer will then review the request for payment to ensure its conformance with the Measurement of Work Section 2.16, the Contract Unit Prices, and other Contract requirements.

From the amount of the request for payment which is approved by the Engineer, ten percent (10%) shall be deducted and retained by the AGENCY, and the remainder less the amount of all previous payments, and less the amount of all valid setoffs, shall be paid to the CONTRACTOR.

Valid setoff shall include:

- (a) The cost to correct defective work which has not been remedied by the CONTRACTOR; and
- (b) Claims against the CONTRACTOR or any of its subcontractors for labor and materials furnished; and

- (c) Failure of CONTRACTOR to make proper payments to any subcontractors, employees, or suppliers; and
- (d) Costs resulting from default by the CONTRACTOR on any other term or condition of this Contract; and
- (e) Liquidated damages.

Progress payments will be provided within thirty (30) days of the submittal date for which payment was requested and approved as outlined above. If the CONTRACTOR fails to meet the monthly submittal date, progress payments will not be issued for that month.

2.17.2 Reduction of Retention. In the event that the CONTRACTOR completes fifty percent (50%) of the work to the satisfaction of the Engineer, the Engineer may reduce the retention from ten percent (10%) to no less than five percent (5%). Provided, however, in no event shall the retention be reduced in an amount less than the sum of the cost of all valid setoffs, and one hundred twenty-five percent (125%) of the cost to complete all work, as determined by the Engineer.

2.17.3 Retention Substitutes. In accordance with the Public Contract Code Section 22300, securities shall be permitted in substitution of money withheld by the AGENCY to ensure performance under this contract.

At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld shall be deposited with the AGENCY, or with a state or federal chartered bank as the escrow agent, who shall then pay such moneys to the CONTRACTOR. Upon satisfactory completion of the contract, the securities shall be returned to the CONTRACTOR. Securities eligible for investment under this Subsection shall include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the CONTRACTOR and the AGENCY. The CONTRACTOR shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

If an escrow agreement is used as security, it shall be null, void, and unenforceable unless it is substantially similar to the form stated in Public Contract Code Section 22300.

2.17.4 Other Remedies. No progress payment made to the CONTRACTOR or its sureties will constitute an acceptance of the work, a waiver of the liquidated damages or a waiver of any other remedies available at law.

2.18 USE OF IMPROVEMENTS PRIOR TO ACCEPTANCE. The AGENCY reserves the right to take over and utilize all or part of any completed work. The CONTRACTOR will be notified in writing in advance of such action. Such action by the AGENCY will

relieve the CONTRACTOR of responsibility for injury or damage to said completed portions of the improvement resulting from use by public traffic or from the action of the elements or from any other cause, except injury or damage resulting from the CONTRACTOR's operations or negligence. The CONTRACTOR will not be required to reclean such portions of the improvement before field acceptance, except for cleanup made necessary by its operations. Nothing in this section shall be construed as relieving the CONTRACTOR from full responsibility for correcting defective work or materials, nor from completing all work under the contract.

In the event the AGENCY exercises its right to place into service and utilize all or part of any completed work, the AGENCY shall assume the responsibility and liability for injury to persons or property arising out of or resulting from the utilization of the facility or appurtenance so placed into service, except for any such injury to persons or property caused by any willful or negligent act or omission by the CONTRACTOR, subcontractor, their officers, employees, or agents.

2.19 ACCEPTANCE OF WORK; FINAL PAYMENT. When the CONTRACTOR is satisfied that the Work at the Project Site is finished, the CONTRACTOR shall request a punch list and final inspection from the Engineer. The CONTRACTOR shall continue to make corrections to the Work at the Project Site upon receiving direction from the Engineer. The Work at the Project Site shall not be considered complete until the CONTRACTOR receives a notice from the Engineer requesting submittal of "as-built" plans and any other required final reports or documents.

All work under the Agreement, pursuant to the requirement of the Notice to Proceed, shall not be considered complete until after the CONTRACTOR has completed all Work in the field, submitted copies of the "as-built" plans, and submitted any other final reports and documents, all to the satisfaction of the Engineer. The "as-built" plans shall show in red, in detail, all construction changes, particularly the location and depth of conduit runs, and crossings, and the locations of standards, pull boxes, and other substructures.

Upon completion of all work under the Agreement, as defined above, the Engineer shall recommend that the Board accept the Work on behalf of the AGENCY, and that a Notice of Completion be filed in the offices of the County Recorder. The Board delegates to the Engineer authority to accept projects with a value of less than \$200,000.

The ten percent (10%) retention shall be paid to the CONTRACTOR thirty-five (35) days after the date of the recording of the Notice of Completion. The AGENCY reserves the right to withhold the ten percent (10%) retention to the extent that:

- (a) there is defective work not remedied by the CONTRACTOR, or,
- (b) there are claims against the CONTRACTOR or any of its subcontractors for labor or materials furnished; or,

- (c) the CONTRACTOR has not made proper payments to subcontractors, employees, or materialmen; or,
- (d) the CONTRACTOR has defaulted on any other term or condition of this Contract.

Payment of the final progress payment shall be contingent upon the CONTRACTOR furnishing the AGENCY with a release of all claims against the AGENCY by the CONTRACTOR and its subcontractors and suppliers arising by virtue of the Contract related to those amounts. Disputed contract claims in stated amounts may be specifically excluded by the CONTRACTOR from the operation of the release.

The acceptance by the CONTRACTOR of the final progress payment shall constitute a waiver of all claims by the CONTRACTOR except those previously made in writing and still unsettled.

2.20 CONTRACTOR'S ASSIGNMENT OF TITLE. Section 7103.5 of the Public Contract Code provides:

“in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgement by the parties.”

The CONTRACTOR further warrants that all goods, services, and materials provided to the AGENCY in accordance with this Contract are free and clear of all liens and encumbrances.

2.21 CHANGES IN WORK.

2.21.1 Contents of Change Proposals, Change Orders, and Claims. Any Change Proposal or Claim submitted by the CONTRACTOR shall be signed by the authorized representative of the CONTRACTOR as defined in Subsection 2.5, and shall include the information set forth in this subsection 2.21.1 below. A Change Order issued by the AGENCY shall be signed by the Engineer and contain the information set forth in this subsection 2.21.1 below:

- (a) the project name and number; and,
- (b) detailed description of the change or claim; and,

- (c) the reason for the change or claim; and,
- (d) the increase or decrease in dollar value of the Contract price resulting from the change or claim, or the method of determining compensation for the change or claim; and,
- (e) the number of work days which will be added or subtracted from the date of completion of all work under the Agreement by virtue of the change or claim.

2.21.2 Contractor Initiated Changes. The CONTRACTOR may request changes in specific methods of construction, or changes in the Plans and Special Provisions, by submitting written Contract Change Proposals to the Engineer.

The Change Proposal shall be reviewed by the Engineer, and may be approved by the Engineer if the change does not materially affect the Work, the change is not detrimental to the Work or the interests of the AGENCY, and the request is received by the Engineer within ten (10) working days of the start of the condition which caused the change. Nothing herein shall be construed as granting a right to the CONTRACTOR to demand approval of Change Proposals.

2.21.3 Agency Initiated Changes. The AGENCY may order a change to the Work, if the change is within the scope of work, by written Change Order signed by the Engineer. The Change Order shall include the information set forth in Section 221.1 above.

The CONTRACTOR shall promptly and diligently perform in accordance with the Contract Documents as amended by the Engineer.

The CONTRACTOR shall, within ten (10) working days of a written request by the Engineer, submit a proposed change (in accordance with Section 2.21.1 above) in Contract Price and Contract Time which the CONTRACTOR certifies and justifies are resulting from the Change Order. This proposed change may be negotiated by the AGENCY and CONTRACTOR in order to reach an agreement as to the impact of the Change Order upon the Contract Price and the Contract Time. The process of submitting the proposed change and negotiating an agreement, or any failure to reach an agreement as to any resulting change of Contract Price or Contract Time, shall not relieve the CONTRACTOR of its obligation to perform in accordance with the Contract Documents.

2.21.4 Change of Contract Price.

- (a) If a change to the Work is covered by Contract Unit Prices set forth in the Bid, or any other "Stipulated Unit Prices" set forth in the Contract Documents, then the applicable Contract Unit Prices or Stipulated Unit Prices shall govern the increase or decrease to the Contract Price.

- (b) If a change to the Work is not covered by Contract Unit Prices set forth in the Bid, or any other "Stipulated Unit Prices" set forth in the Contract Documents, then the increase or decrease to the Contract Price shall be the Cost of Work to the CONTRACTOR calculated in accordance with Section 2.21.5 below, unless otherwise agreed to in writing between the AGENCY and CONTRACTOR.

2.21.5 Cost of the Work.

- (a) **Daily Reports.** In order to be entitled to an adjustment to Contract Price due to extra work for which the CONTRACTOR is not already being compensated in accordance with this "Cost of the Work" section, the CONTRACTOR shall submit a daily report to the Engineer in a form subject to the review and approval of the Engineer. The daily report shall include copies of supporting documents to substantiate all costs listed therein. Supporting documents shall include payroll sheets, delivery tickets, purchase orders, and invoices. The CONTRACTOR shall submit the daily report to the Engineer by 4:00 p.m. of the next work day. The CONTRACTOR and the Engineer shall both make a reasonable effort to come to an agreement as to the description of the extra work performed, and shall make written notations appended to the daily report to note any points of disagreement. The daily report shall describe only that extra work performed by the CONTRACTOR for which the CONTRACTOR wishes to be compensated in accordance with this section. The daily report shall include, at a minimum, the following:
- 1) The names, classifications, and hours of all laborers,
 - 2) The quantities and types of materials used,
 - 3) The type of equipment, size, identification number, and hours of operation, including loading and transportation if applicable,
 - 4) Any other costs for services and expenditures allowable under this Section 2.21.5.
- (b) **Labor.** Labor costs shall include only the actual direct costs of workers and foremen (including payroll taxes, workers compensation insurance, liability insurance, pension, and other assessments or benefits required by law) to the extent they performed extra work. Labor costs shall not include the cost of supervisors or office staff, or any other indirect costs which are covered by the markup.
- (c) **Materials.** Material costs shall include only the actual direct costs of materials delivered and installed in the extra work.
- (d) **Equipment Rental.** Equipment rental shall include the actual direct costs of equipment used on the extra work.

- (e) **Other items.** The AGENCY may, in its discretion, authorize the direct costs of other items required for the extra work, to the extent those other items are not covered under markup or Subcontractor work.
- (f) **Markup.** The CONTRACTOR shall be entitled to a markup of fifteen percent (15%) of the actual net increase in the above direct costs which are substantiated in accordance with this section 2.21.5. The markup shall cover all indirect costs including but not limited to bond and insurance premiums, office overhead, profit, and the purchasing or renting of small tools and equipment.
- (g) **Subcontractor's Work.** In order for the CONTRACTOR to be entitled to an adjustment in the Contract Price based upon the work of a subcontractor, the CONTRACTOR shall submit documentation in accordance with section 2.21.5(a) through 2.21.5(f) above for the subcontractor's work. The CONTRACTOR shall be entitled to a markup on the subcontractor's costs (direct and markup) equal to ten percent (10%) on the first two-thousand (\$2,000) dollars of the subcontractor's costs, and five percent (5%) on work in excess of two-thousand (\$2,000) dollars of the subcontractor's costs.

2.22 CLAIMS AND DISPUTES.

2.22.1 Claims for Additional Compensation. If the CONTRACTOR wishes to make a Claim for additional compensation, the CONTRACTOR shall submit a written claim to the Engineer within ten (10) working days of the start of the condition which caused the purported increase in Contract price. The Claim shall include all the information required by Section 2.21.1 In order to substantiate the Claim, the CONTRACTOR shall, at a minimum, submit daily reports in accordance with Section 2.21.5.

The Engineer shall review the CONTRACTOR's claim and may authorize additional compensation in accordance with the criteria set forth in Sections 2.21.4 and 2.21.5.

2.22.2 Claims for Additional Time. If the CONTRACTOR wishes to make a Claim for an increase in Contract Time, the CONTRACTOR shall submit a written Claim to the Engineer within ten (10) working days of the start of the condition which purportedly caused the increase in Contract Time. The Claim shall include all the information required by Section 2.21.1. In order to substantiate the Claim, the CONTRACTOR shall, at a minimum, submit a specific description of the manner in which the condition impacts the CONTRACTOR's construction schedule.

The Engineer shall review the CONTRACTOR's claim and may authorize extensions of time in accordance with the criteria set forth in this section only when a delay is caused to the entire Work for the Project. Extensions of time shall not be granted for noncontrolling delays to portions of the Work unless the CONTRACTOR demonstrates that such delays also delay the progress of the entire Work.

If delays are caused by events which are reasonably foreseeable to and within the control of the CONTRACTOR, the CONTRACTOR shall be entitled to no extension of time. Such events shall include, but are not limited to, the AGENCY's suspension of work due to the CONTRACTOR's failure to maintain required insurance, and failure to provide adequate safety measures at the site.

If delays are caused by unforeseen events beyond the control of both the CONTRACTOR and the AGENCY, the CONTRACTOR shall be entitled to an extension of time, but the CONTRACTOR shall not be entitled to any additional compensation due to the delay. Such unforeseen events include war, government regulations, labor disputes, strikes, fires, floods, adverse weather necessitating cessation of work, other similar action of the elements, and other causes substantially equal in gravity.

If delays are caused solely by the AGENCY, the CONTRACTOR shall be entitled to an extension of time, and may be entitled to additional compensation in accordance with Section 2.22.1 only if the delays are unreasonable under the circumstances and not within the reasonable contemplation of the CONTRACTOR at the time the project was bid.

2.22.3 Disputed Work. In the event that a dispute arises between the AGENCY and the CONTRACTOR as to the interpretation of Contract Documents, including change orders, or the compensation for Work, or the time for completion of the Work, the CONTRACTOR shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall diligently proceed with all work to be performed under the Contract Documents. No work shall be delayed or postponed by the CONTRACTOR pending resolution of any disputes or disagreements with the AGENCY unless otherwise agreed upon in writing. The AGENCY shall compensate the CONTRACTOR based on the City Attorney's interpretation of the AGENCY's obligation to pay, or on a subsequent written agreement of the parties, or as determined by arbitration, or as fixed in a court of law.

2.22.4 RESOLUTION OF DISPUTED CLAIMS: ADMINISTRATIVE REVIEW AND CIVIL ACTION PROCEDURES

1. DEFINITION.

For the purpose of this Section, "claim" means a separate demand by the CONTRACTOR for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the CONTRACTOR pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the CONTRACTOR is not otherwise entitled to, or (C) an amount the payment of which is disputed by the AGENCY.

2. ADMINISTRATIVE REVIEW BY AGENCY.

- (a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this Section is intended to extend the time limit or supersede notice requirements otherwise provided by statute for the filing of claims.

- (b)
 - (1) For claims of less than fifty thousand dollars (\$50,000), the AGENCY shall respond in writing to any written claim within forty-five (45) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the AGENCY may have against the CONTRACTOR.

 - (2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the AGENCY and the CONTRACTOR.

 - (3) The AGENCY's written response to the claim, as further documented, shall be submitted to the CONTRACTOR within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by the CONTRACTOR in producing the additional information, whichever is greater.

- (c)
 - (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the AGENCY shall respond in writing to all written claims within sixty (60) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the AGENCY may have against the CONTRACTOR.

 - (2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the AGENCY and the CONTRACTOR.

 - (3) The AGENCY's written response to the claim, as further documented, shall be submitted to the CONTRACTOR within thirty (30) days after receipt of the further documentation, or within a period of time no greater than that taken by the CONTRACTOR in producing the additional information or requested documentation, whichever is greater.

- (d)
 - (1) For claims of over three hundred seventy-five thousand (\$375,000), the AGENCY shall respond in writing to all written claims within ninety (90) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the

claim or relating to defenses to the claim the AGENCY may have against the CONTRACTOR.

- (2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the AGENCY and the CONTRACTOR.
 - (3) The AGENCY's written response to the claim, as further documented, shall be submitted to the CONTRACTOR within sixty (60) days after receipt of the further documentation, or within a period of time no greater than that taken by the CONTRACTOR in producing the additional information or requested documentation, whichever is greater.
- (e) If the CONTRACTOR disputes the AGENCY's written response, or the AGENCY fails to respond within the time prescribed, the CONTRACTOR may so notify the AGENCY, in writing, either within fifteen (15) days of receipt of the AGENCY's response or within fifteen (15) days of the AGENCY's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the AGENCY shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.
- (f) Following the meet and confer conference, if the claim or any portion remains in dispute, the CONTRACTOR may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. CONTRACTOR understands and agrees that timely and properly filing a Government Code claim is a condition precedent to maintenance of a civil action for money or damages based on such claim. For purposes of those provisions, the running of the period of time within which a Government Code claim must be filed shall be tolled from the time the CONTRACTOR submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

3. CIVIL ACTION PROCEDURES.

- (a) The parties agree that if the CONTRACTOR files a civil action, then within sixty (60) days, but no earlier than thirty (30) days, following the filing of responsive pleadings, the matter will be submitted to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within fifteen (15) days by both parties of a disinterested third person as mediator, shall be commenced within thirty (30) days of the submittal, and shall be concluded within fifteen (15) days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court

or by stipulation of both parties. If the parties fail to select a mediator within the fifteen (15) day period, any party may petition the court to appoint the mediator.

- (b) (1) The parties agree that if the matter remains in dispute, the case will be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 [Article 3, (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure] shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.
 - (2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.
 - (3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of trial de novo.
- (c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

2.23 SUSPENSION OF WORK.

2.23.1 General. The Work may be suspended in whole or in part when determined by the Engineer that the suspension is necessary in the interest of the AGENCY. The CONTRACTOR shall comply immediately with any written order of the Engineer suspending Work.

2.23.2 Archaeological and Paleontological Discoveries. If discovery is made of items of archaeological or paleontological interest, the CONTRACTOR shall immediately cease excavation in the area of discovery and shall not continue until ordered by the Engineer. When resumed, excavation operations within the area of discovery shall be as directed by the Engineer.

Discoveries which may be encountered may include, but not be limited to, dwelling sites, stone implements or other artifacts, animal bones, human bones and fossils.

The CONTRACTOR may be entitled to an extension of time and compensation for suspension of Work in accordance with the provisions of Section 2.22.2.

2.24 DEFAULT BY CONTRACTOR. If, in the opinion of the Engineer, there is a reasonable doubt as to the CONTRACTOR's ability to complete performance under the Contract Documents or the CONTRACTOR is not complying in good faith with the terms of the Contract Documents, or in the event of a breach of a material requirement of the Contract Documents, the CONTRACTOR shall be in default of the Contract.

Upon default, the City Attorney shall give written notice to the CONTRACTOR and the Surety of the Faithful Performance Bond to cure the default within five (5) working days of the notice or, if more than five (5) working days are reasonably required to cure the default, the notice shall require adequate assurance of due performance within five (5) working days. At a minimum, adequate assurance shall consist of the CONTRACTOR's actual performance in accordance with the Contract Documents, and written documentation of the CONTRACTOR's demands for performance to subcontractors and suppliers, and the subcontractor's and supplier's written acknowledgement thereof. If the CONTRACTOR complies with the notice, the Contract Documents shall remain in full force and effect.

If the Surety gives the AGENCY written notice that the Surety will assume control and perform the work as successor to the CONTRACTOR, the Surety shall be responsible for completion of all the CONTRACTOR's obligations under the Contract, and the Surety shall be entitled to all compensation owed to the CONTRACTOR under the Contract.

If the CONTRACTOR or its Surety does not comply with the notice within five (5) working days, or after starting to comply, fails to continue to diligently perform, the AGENCY may exclude both the CONTRACTOR and its Surety from the premises and take possession of all materials and equipment, and complete the Work by any means allowable under the law.

AGENCY may also terminate this Agreement upon written notice to CONTRACTOR in the event that:

- (a) CONTRACTOR shall voluntarily file or have involuntarily filed against it any protection under bankruptcy or insolvency act or law; or,
- (b) CONTRACTOR shall be adjudicated a bankruptcy; or,
- (c) CONTRACTOR shall make a general assignment for the benefit of creditors.

In the event of an exclusion of the CONTRACTOR and the Surety from the premises, the CONTRACTOR shall not be entitled to receive any further payment until the Work is completed. The CONTRACTOR shall be paid the actual amount due in accordance

with the Contract Documents for the amount of work performed at the time of exclusion, less damages caused to the AGENCY by the CONTRACTOR's default.

The cost to the AGENCY of completing the Work, including any administrative costs and attorney's fees, shall be called "Completion Costs." Completion Costs shall be deducted from any money due or becoming due to the CONTRACTOR under the Contract. If the sums under the Contract are insufficient for the AGENCY to pay Completion Costs, the CONTRACTOR shall pay the AGENCY the amount of such unpaid Completion Costs within ten (10) working days of receipt of written certification by the City Attorney of the amount owed.

The provisions of this section shall be in addition to all other rights and remedies available to the AGENCY under law.

2.25 TERMINATION OF THE CONTRACT. The Board may terminate the Contract at its own discretion or when conditions encountered during the Work make it impossible or impracticable to proceed, or when the AGENCY is prevented from proceeding with the Contract by an act of God, national emergency, proclamation of the President of the United States, order of any federal authority, by law, or by official action of a public authority, upon receipt of written notice by the Engineer, of the Board's termination.

In the event of such a termination, the CONTRACTOR shall be entitled to compensation only for the reasonable value of the work done.

CITY OF OCEANSIDE CONTRACT DOCUMENTS

SECTION 3: SPECIAL PROVISIONS

PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT
(750810228)

3.0 GENERAL. All construction shall conform to the 2003 edition of the Standard Specifications for Public Works Construction except as specifically amended by these Contract Documents.

3.01 DEFINITIONS. The definitions herein, are applicable to these Special Provisions and to the project Plans.

Base – A layer of specified material of planned thickness placed immediately below the pavement or surfacing.

County Sealer – The Sealer of Weights and Measures of the county in which the Contract is let.

Electrolier – Streetlight assembly complete, including foundation, standard, luminaire arm, luminaire, etc.

House Connection Sewer – A sewer, within a public street or right-of-way, proposed to connect any parcel, lot or part of a lot with a main line sewer.

House Sewer – A sewer, wholly within private property, proposed to connect any building to a house connection sewer.

Luminaire – The lamp housing including the optical and socket assemblies (and ballast if so specified).

Luminaire Arm – The structural member, bracket or mast arm, which, mounted on the standard, supports the luminaire.

Service Connection – Service connections are all or any portion of the conduit, cable or duct, including meter, between a utility distribution line and an individual consumer.

Sewer – Any conduit intended for the reception and transfer of sewage and fluid industrial waste.

Standard – The shaft or pole used to support street lighting luminaires, traffic signal heads, mast arms, etc.

Storm Drain – Any conduit and appurtenances intended for the reception and transfer of storm water.

Street – Any road, highway, parkway, freeway, alley, walk, or way.

Subbase – A layer of specified material of planned thickness between a base and the subgrade.

Subgrade – For roadways, that portion of the roadbed on which pavement, surfacing, base, subbase, or a layer of other material is placed. For structures, the soil prepared to support a structure.

Utility – Tracks, overhead or underground wires, pipeline, conduits, ducts, or structures, sewers, or storm drains owned, operated, or maintained in or across a public right-of-way or private easement.

3.02 ABBREVIATIONS.

3.02.1 General. The abbreviations herein, together with others in general use, are applicable to these Special Provisions and to the project Plans.

All abbreviations and symbols used on Plans for structural steel construction shall conform to those given by the “Manual of Steel Construction” published by the American Institute of Steel Construction, Inc.

3.02.2 Common Usage.

Abbreviations	Word or Words
ABS	Acrylonitrile – butadiene - styrene
AC	Asphalt concrete
ACP	Asbestos cement pipe
Alt	Alternate
Amer Std	American Standard
AWG	American Wire Gage (nonferrous wire)
BC	Beginning of curve
BCR	Beginning of curb return
Bdry	Boundary
BM	Bench mark
BVC	Beginning of vertical curve
B/W	Back of wall
CAB	Crushed aggregate base
Caltrans	California Department of Transportation
CAP	Corrugated aluminum pipe
CB	Catch basin
Cb	Curb
CBR	California Bearing Ratio
c-c	Center to center
CF	Curb face
C&G	Curb and gutter

Abbreviations	Word or Words
CIP	Cast iron pipe
CIPP	Cast-in-place pipe
CLF	Chain link fence
CMB	Crushed miscellaneous base
CMC	Cement mortar-coated
CML	Cement mortar-lined
CO	Cleanout (sewer)
Col	Column
Conc	Concrete
Const	Construct, Construction
Conn	Connection
Coord	Coordinate
CSP	Corrugated steel pipe
CTB	Cement treated base
CV	Check valve
Db	Decibels
DF	Douglas fir
Dia	Diameter
DT	Drain tile
Dwg	Drawing
Dwy	Driveway
Dwy Appr	Driveway approach
DL	Dead load
EC	End of curve
ECR	End of curve return
EF	Each face
EG	Edge of gutter
EGL	Energy grade line
EI	Elevation
ELC	Electrolier lighting conduit
Eng	Engineer, Engineering
EP	Edge of pavement
Esmt	Easement
ETB	Emulsion treated base
EVC	End of vertical curve
Ex	Existing
Exc	Excavation
Exp Jt	Expansion joint
° F	Degree on the Fahrenheit temperature scale
Fab	Fabricate
F&C	Frame and cover
FD	Floor drain
Fdn	Foundation
Fed Spec	Federal specification

Abbreviations	Word or Words
FG	Finished grade
FH	Fire hydrant
F&I	Furnish and install
FL	Flow line
FS	Finished surface
Ftg	Footing
Ft-lb	Foot-pound
F/W	Face of wall
Ga	Gauge
Galv	Galvanized
GIP	Galvanized iron pipe
GL	Ground line or grade line
GM	Gas meter
GP	Guy pole
Gr	Grade
Grtg	Grating
GSP	Galvanized steel pipe
HB	Hose bib
HC	House connection
Hdwl	Headwall
HGL	Hydraulic grade line
Hor	Horizontal
Hp	Horsepower
HPG	High pressure gas
HPS	High pressure sodium (Light)
Hyd	Hydraulic
ID	Inside diameter
Insp	Inspection
Inv	Invert
IP	Iron pipe
JC	Junction Chamber
Jct	Junction
JS	Junction structure
JT	Joint
L	Length
Lab	Laboratory
LD	Local depression
LH	Lamp hole
LL	Live load
Long	Longitudinal
LP	Lamp post
LPS	Low pressure sodium (Light)
LTS	Lime treated soil
Maint	Maintenance

Abbreviations	Word or Words
Max	Maximum
Meas	Measure
MH	Manhole
Mil Spec	Military specification
Misc	Miscellaneous
Mon	Monument
Mult	Multiple
MVL	Mercury vapor light
Obs	Obsolete
OC	On center
OD	Outside diameter
OE	Outer edge
Opp	Opposite
Orig	Original
PB	Pull box
PC	Point of curvature
PCC	Portland cement concrete, or;
PCC	Point of compound curvature
PCVC	Point of compound vertical curve
PE	Polyethylene
PI	Point of intersection
PL	Property line
PMB	Processed miscellaneous base
POC	Point on curve
POT	Point on tangent
PP	Power pole
PRVC	Point of reverse vertical curve
PT	Point of tangency
PVC	Polyvinyl chloride
Pvmt	Pavement
Pvt R/W	Private right-of-way
Q	Rate of flow in cubic feet per second
Quad	Quadrangle, Quadrant
R	Radius
R&O	Rock and oil
RA	Recycling agent
RAC	Recycled asphalt concrete
RAP	Reclaimed asphalt pavement
RC	Reinforced concrete
RCB	Reinforced concrete box
RCP	Reinforced concrete pipe
RCV	Reinforced control valve
Ref	Reference
Reinf	Reinforced or reinforcement

Abbreviations	Word or Words
Res	Reservoir
RR	Railroad
R/W	Right-of-way
SCCP	Steel cylinder concrete pipe
SD	Storm drain
SDR	Standard thermoplastic pipe dimension ration (ratio of pipe O.D. to minimum wall thickness)
SI	International System of Units (Metric)
Spec	Specifications
SS	Sanitary sewer
Sta	Station
Std	Standard
St Hwy	State highway
Str	Straight
Str Gr	Straight grade
Struc	Structural/Structure
S/W	Sidewalk
Tan	Tangent
TC	Top of curb
Tel	Telephone
Topo	Topography
Tr	Tract
Trans	Transition
TS	Traffic signal or transition structure
TSC	Traffic signal conduit
TSS	Traffic signal standard
T/W	Top of wall
Typ	Typical
USA	Underground Service Alert
Var	Varies, Variable
VB	Valve box
VC	Vertical curve
VCP	Vitrified clay pipe
Vert	Vertical
Vol	Volume
WI	Wrought iron
WM	Water meter
WPJ	Weakened plane joint
X Conn	Cross connection
X-sec	Cross section

3.02.3 Institutions

Abbreviations	Word or Words
AASHTO	American Association of State Highway and Transportation Officials
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
API	American Petroleum Institute
AREA	American Railway Engineering Association
ASTM	American Society for Testing and Materials
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
NEMA	National Electrical Manufacturers Association
NOAA	National Oceanic & Atmospheric Administration
UL	Underwriters Laboratories Inc.
USGS	United States Geological Survey

3.03 METRIC INTERNATIONAL SYSTEM (SI).

3.03.1 General. The U.S. Standard Measures, also called the U.S. Customary System, is used as the principal measurement system in these specifications. However, certain material specifications and test requirements contained herein use the International System of Units (SI or metric system). Therefore, the following metric units are included. Reference is also made to ASTM E 380 for definitions of various units of the SI system and a set of conversion factors.

3.03.2 Metric Units.

Abbreviations	Unit
A	Ampere
°C	Degree on Celsius temperature scale
cd	Candela
cm	Centimeter
g	Gram
J	Joule
kg	Kilogram
km	Kilometer
L	Liter
m	Meter
mm	Millimeter
N	Newton
Pa	Pascal
s	Second
W	Watt

3.04 SYMBOLS.

<	Angle
%	Percent
'	Feet or minutes
"	Inches or seconds
#	Number
_ /	per or of (between words)
°	Degree
PL	Property line
CL	Centerline
SL	Survey line or station line

CITY OF OCEANSIDE CONTRACT DOCUMENTS

EXHIBIT 1: FAIR EMPLOYMENT PRACTICES PROVISIONS

**PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT
(750810228)**

Under the terms of the Contract Documents for the above stated project, the CONTRACTOR, and all subcontractors, suppliers, and vendors, shall comply with all AGENCY, State and Federal laws, ordinances, codes, executive orders, or regulations, including amendments, and any other requirements regarding equal employment opportunities and fair employment practices, including the following provisions.

The CONTRACTOR in executing the Bid Documents, certifies that it shall meet and fully comply with these Fair Employment Practices Provisions.

The CONTRACTOR agrees to provide written evidence of compliance with these provisions upon request by the AGENCY.

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of such person. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. CONTRACTOR certifies that affirmative action has been taken to seek out minority and women business enterprises to the maximum extent feasible. The AGENCY's Minority Business Enterprise Plan and additional information is available from the Administrative Analyst, Housing Department, 300 North Coast Highway, Oceanside, CA 92054.
3. The CONTRACTOR shall post a copy of EXHIBIT 4 of the Contract Documents, the "Notice of Equal Employment Opportunities", in conspicuous places available to employees or applicants for employment.
4. The CONTRACTOR shall notify in writing each labor union or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other contract or understanding, of the content of these Fair Employment Practices Provisions.

5. The CONTRACTOR will permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Fair Employment and Housing Commission, AGENCY, or any other appropriate agency of the County of San Diego, or the State of California, designated by the awarding authority, for the purpose of investigation to ascertain compliance with the Fair Employment Practices Provisions of this Contract.
6. The CONTRACTOR shall notify in writing all supervisors, foremen and other personnel officers, of the content of these Fair Employment Practices Provisions.
7. The CONTRACTOR shall notify in writing all sources of employee referrals (including unions, employment agencies, advertisements, California Employment Development) of the content of these Fair Employment Practices Provisions.
8. Personally, or through its representatives, the CONTRACTOR shall, through negotiations with the unions with whom the CONTRACTOR has agreements, attempt to develop an agreement which will:
 - a) Spell out responsibilities for non-discrimination in hiring, referral, upgrading and training.
 - b) Otherwise implement an affirmative anti-discrimination program in terms of the union's specific areas of skill and geography, to the end that qualified minority workers will be available and given an equal opportunity for employment.
9. The CONTRACTOR shall notify the awarding authority of opposition to the anti-discrimination clause by individuals, firms or organizations during the period of its prequalification.
10. If the CONTRACTOR or any subcontractor is in violation of these provisions, the AGENCY will serve written notice on the CONTRACTOR setting forth the nature of the violation. The CONTRACTOR shall meet promptly with the AGENCY to determine the manner and time for correcting the violations. If the CONTRACTOR fails or refuses to so correct the violation, the AGENCY will pursue all remedies which may be required under the law.
11. A finding of willful violation of any of the Fair Employment Practices Provisions of this Contract or of the California Fair Employment and Housing Act shall be regarded by the awarding authority as a basis for determining the CONTRACTOR to be not a "responsible bidder" as to future contracts for which such CONTRACTOR may submit bids.

12. The AGENCY shall deem a finding of willful violation of the California Fair Employment and Housing Act to have occurred upon receipt of written notice from the Fair Employment and Housing Commission that it has investigated and determined that the CONTRACTOR has violated the California Fair Employment and Housing Act and has issued an order under Government Code Section 12970 or obtained an injunction under Government Code Section 12973.
 - a) Nothing contained in the Fair Employment Practices Provisions shall be construed in any manner or fashion so as to prevent the AGENCY as awarding authority from pursuing any other remedies that may be available at law.
 - b) Nothing contained in the Fair Employment Practices Provisions shall be construed in any manner or fashion so as to require or permit the hiring of an employee not permitted by the National Labor Relations Act.
13. The CONTRACTOR shall include these Fair Employment Practices Provisions in every first tier subcontract or purchase order, and shall require each subcontractor, supplier, or vendor to similarly bind each further subordinate agreement.
14. The CONTRACTOR shall take action with respect to any subcontractor, supplier, or vendor as may be directed by the AGENCY or any other governing body to ensure enforcement of these provisions.

CITY OF OCEANSIDE CONTRACT DOCUMENTS

EXHIBIT 2: NOTICE OF EQUAL EMPLOYMENT OPPORTUNITIES

PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT (750810228)

TO: _____

You are hereby notified as a union, labor representative, or other source of employee referrals that _____, as CONTRACTOR, as under contract with, _____, as AGENCY for the performance of the above-stated project. Under the terms of said contract, and in compliance with all AGENCY, State, and Federal orders regarding equal employment opportunities and fair employment practices, the CONTRACTOR will affirmatively ensure that no employee or applicant for employment is discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation during the course of said contract. This obligation for affirmative action includes recruiting, advertising, or soliciting for employment; hiring, placing, training, upgrading, transferring, or demoting; selection for training or apprenticeship; rates of pay or other forms of compensation; and layoff or termination.

Specific requirements for affirmative action under said contract are included on the AGENCY's Fair Employment Practices Provisions and Minority Business Enterprise plan. Copies of the AGENCY's Fair Employment Practices Provisions are available at the Personnel Division's office of Administrative Services Department, 300 North Coast Highway, Oceanside, CA 92054. Copies of the Minority Business Enterprise Plan are available at the Administrative Analyst's office, Housing Department, 300 North Coast Highway, Oceanside, CA 92054. The cooperation of all sources of employee referrals is essential to the performance of obligations under said provisions. Any comments or questions regarding said provisions should be submitted promptly in writing to the CONTRACTOR.

Copies of this notice will be posted by the CONTRACTOR in conspicuous places available to employees or applicants for employment.

Contractor

By: _____ Date: _____

Address

Telephone

Construction & Demolition Debris Recycling**CITY OF OCEANSIDE CONTRACT DOCUMENTS****EXHIBIT 3: CONSTRUCTION & DEMOLITION DEBRIS RECYCLING**

The Contractor is required to recycle **ALL** construction and demolition (C&D) debris generated as a result of the project and as identified in paragraph three. This section provides the information needed to comply with this requirement.

The Contractor shall submit a San Diego Regional Construction and Demolition Debris Materials Check-Off List, **Exhibit A**, to the Engineer not less than 10 days prior to beginning any work that will generate C&D (Construction & Demolition) debris. Within 5 days of receipt of **Exhibit A** from the Engineer, the City's Solid Waste Program Manager will review **Exhibit A**, indicate whether **Exhibit A** is approved or not approved and return it to the Engineer. Until **Exhibit A** is approved, Contractor shall not arrange for any containers from a recycling or disposal facility to be delivered to the project site, nor remove any C&D debris from the project site.

Accumulating clean loads of separated concrete, asphalt, dirt, metals, wood, etc. should be evaluated as the preferred processing method since fees for recycling separated materials are generally cheaper than recycling loads of mixed C&D debris (e.g., commingled wood, roofing, metals, green waste, etc.) However, space and time constraints may not allow for optimum source separation of materials and it may be necessary to removed mixed loads of C&D debris.

At the end of the project, the Contractor is also required to submit a San Diego Regional Waste Management Plan Recycling Summary Report, **Exhibit B**, with weight tags, to the Engineer to document compliance with this requirement. The project name, number and tonnage or cubic yards shall be shown on all weight tags. **Exhibit B** must be approved by the Engineer before the Final Construction Report can be written and the retention release process can be started. The Contractor shall keep a copy of all weight tags for records. Exhibits A and B are included at the end of these Special Provisions.

Authorized Recycling Facilities for C&D Debris:**ORGANIC PROCESSING FACILITIES****Agri Service (El Corazon)**

Composting Facility - **SWIS 37-AA-0907**
3210 Oceanside Blvd.
Oceanside, CA 92056,
(760) 439-9920

Enniss Enterprise Materials Division

12421 Vigilante Road,
Lakeside, CA 99040
(619) 443-9024

Construction & Demolition Debris Recycling

Evergreen Nursery – SWIS 37-AA-0946

3231 Oceanside Blvd.
Oceanside, CA 92056
(760) 754-0340

Evergreen Nursery – SWIS 37-AB0005

(and) 7150 Black Mountain Road
San Diego, CA
(619) 670-1007

Hanson Aggregates A-1 Soils – SWIS 27-AA-0949

12560 Slaughter House Canyon Road
Lakeside, CA 92163

Miramar Greenery – SWIS 37-AB-0003

5180 Convoy St
San Diego, CA 92111
(858) 573-1418

Organic Recycling West (ORW) – SWIS 37-AA-0905

1202 La Media Road
San Diego, CA 92173
(619) 661-6712

CONSTRUCTION AND DEMOLITION FACILITIES

California Commercial Asphalt

9235 Camino Santa Fe
San Diego, CA 92121
(619) 586-0611
Asphalt (and)
387 Hollister
San Diego, CA
(619) 429-3301
Asphalt

EDCO Construction/Demolition Debris Recycling - SWIS 37-AA-9953

224 S. Las Posas Road
San Marcos, CA 92069

Recycling facility that processes source-separated CDI materials. Open Mondays through Saturdays from 5:30 a.m. to 11:30 p.m.

(760) 744-2700

Construction & Demolition Debris Recycling

Emery Materials & Recycling

1021 W. Washington Ave.
Escondido, CA 92025
(760) 738-8100
Clean fill, concrete or asphalt

Enniss Enterprise Materials Division

12421 Vigilante Road,
Lakeside, CA 92040
(619) 443-9024

Escondido Sand and Gravel

500 N. Tulip
Escondido, CA 92025
(760) 432-4690
Clean concrete and asphalt

Hanson Aggregates

3701 Haymar Drive
Carlsbad, CA 92008
(760) 729-2090
Clean concrete, asphalt and fill.
9229 Harris Plant Road
San Diego, CA 92145
(858) 715-5609
12560 Highway 67
Lakeside, CA 92040
Clean concrete and asphalt

Hester's Granite Company

2094 Willow Glen Drive
El Cajon, CA 92019
(619) 593-9020
Clean concrete and asphalt

IMS Recycling

2697 Main Street
San Diego, CA 92019
(619) 231-2521
All types of metals, electronics, computers

J. Cloud, Inc.

2094 Willow Glen Drive
El Cajon, CA 92019
(619) 593-9020
Clean concrete/asphalt, mixed concrete and asphalt, mixed loads, clean dirt

Construction & Demolition Debris Recycling

L.E. Morrison Sand and Gravel

332 Elkelton Place
Spring Valley, CA 91977
(619) 479-5888
Fill dirt, sand, concrete, clean green

Moody's Construction

3210 Oceanside Blvd.
Oceanside, CA 92056
(760) 433-3316

Romero Recycling Yard

8354 Nelson Way
Escondido, CA 92026
(760) 489-8412

Concrete, asphalt, rock

Vulcan Materials Company

10051 Black Mountain Road
San Diego, CA 92126
(858) 536-9684

Clean dirt, broken concrete, asphalt, brick, block and rock

WARE, Inc. (Madison Materials) – SWIS 30-AB-0386

1035 E. Fourth Street
Santa Ana, CA
(714) 836-4694

Concrete, wood, green waste, plastics, aluminum, paper, etc.

WyRock

2847 N. Twin Oaks
San Marcos, CA 92069
(760) 727-0878

Mobile crusher of concrete and asphalt

Merit Recycling Center

32102 Highway 94
Campo, CA 91906
(619) 478-9549

Newspaper, mixed paper, cardboard, phone books, white ledger, plastic bags, CRV #1-7 plastics, PET and HDPE plastics, tin/steel cans, glass, aluminum and non-ferrous material.

Construction & Demolition Debris Recycling

Ranchita/San Felipe Recycling Center

37560-A Montezuma Valley Road

Ranchita, CA 92066

(760) 782-0608

Open: 7 days/week, 24 hours

Newspaper, cardboard, CRV #1-7 plastics, PET and HDPE plastics, glass and aluminum.

Warner Community Recycling Center

30951 Highway 79

Warner Springs, CA 92086

(760) 782-3517

Newspaper, CRV #1-7 plastics, HDPE and PET plastics, glass and aluminum.

Full compensation for the recycling implementation shall be considered as included in the various contract items requiring recycling implementation as specified in these special provisions and directed by the Engineer and no additional compensation will be allowed therefore.

Construction & Demolition Debris Recycling

Exhibit A

Submit to Water Utilities, 300 North Coast Highway, Oceanside, CA 92054

Project Name: Haymar Sewer Segment Replacement Project

Project Number: 750810228

Prepared By: _____ Phone: _____

Signature: _____ Date: _____

Contractor must identify all materials expected to be generated as a result of the building or demolition project at the time of the permit application

At the conclusion of the project, the permittee must report all tons recycled and disposed by material type and file a "Construction and Demolition Debris Recycling Report" with the Water Utilities Department.

Check all materials expected to be generated as a result of this project.

- Mixed Materials
- Asphalt
- Brick
- Cardboard
- Concrete
- Dirt/clean fill
- Lumber
- Plastic
- Roofing Materials
- Metals
- Yard Trimmings
- Sheetrock
- Salvaged Items (e.g., fixtures, lumber)
- _____

A. Inerts _____

B. Construction Debris _____

C. Demolition Debris _____

A + B + C = Estimated Total Tons _____

Construction & Demolition Debris Recycling

Exhibit B

Submit to Water Utilities, 300 North Coast Highway, Oceanside, CA 92054

Project Name: Haymar Sewer Segment Replacement Project

Project Number: 750810228

Prepared By: _____ Phone: _____

Signature: _____ Date: _____

Material Type	Quantity (in tons)	Total Recycled	Total Disposed	Facility Used	Method of Transport
Mixed Materials					
Clean Loads					
Asphalt					
Brick					
Cardboard					
Concrete					
Dirt/Clean Fill					
Lumber					
Plastic					
Roofing Materials					
Metals					
Yard Trimmings					
Sheetrock					
Salvaged items (e.g., fixtures, lumber)					
Other Materials (list)					
Total Tons					

Recycling Rate _____

Please submit copies of all facility weight tickets or receipts with this report. Originals must be maintained on file for three years. If the facility does not provide weights, please use the conversion factors below.

Material Type	Pounds per cubic yard	Tons per cubic yard
Mixed Materials	500	0.25
Asphalt	1,380	0.69
Brick	3,024	1.512
Cardboard	100	0.05
Concrete	1,855	0.9275
Dirt/Clean Fill	2,000	1
Lumber	300	0.165
Plastic	341	0.175
Roofing Materials	418	0.209
Metals	906	0.453
Yard Trimmings	108	0.054
Sheetrock	394	0.197
Salvaged Items	Please estimate in pounds	

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

**PROJECT: HAYMAR SEWER REPLACEMENT PROJECT –
ENVIRONMENTAL SERVICES – 9099978000722**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter “Amendment”) is made and entered this 27th day of January 2011, by and between the City of Oceanside, Water Utilities Department, a municipal corporation, hereinafter designated as “DEPARTMENT”, and RECON ENVIRONMENTAL, INC., hereinafter designated as “CONSULTANT”.

RECITALS

WHEREAS, DEPARTMENT and CONSULTANT are the parties to that certain Professional Services Agreement dated April 11, 2008, hereinafter referred to as the “Agreement”, wherein CONSULTANT agreed to provide certain services to the DEPARTMENT set forth therein;

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Section 1, Scope of Work, Section 2, Timing Requirements and Section 13, Compensation.

AMENDMENT

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

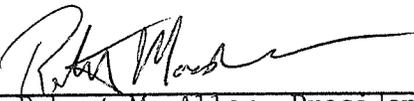
1. Section 1, Scope of Work, shall be amended to reflect and include the required additional responses to public comments as described and outlined in the scope of work and letter dated December 2, 2008, (Exhibit A).
2. Section 2, Timing Requirements, shall be amended to reflect the additional 1-week work schedule from the notice to proceed for Amendment 1 as described and outlined in the scope of work and letter dated December 2, 2008.
3. Section 13, Compensation, shall be amended to reflect that all work performed in accordance with this Amendment 1 shall not exceed \$2,338.
4. Except as expressly set forth in the Amendment, the Agreement shall remain in full force and effect and is hereby ratified and reaffirmed.

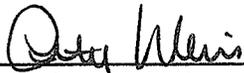
SIGNATURES. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the DEPARTMENT.

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 27th day of January, 2011.

RECON ENVIRONMENTAL, INC.

CITY OF OCEANSIDE

By: 
Robert MacAller, President

By: 
Peter A. Weiss, City Manager

By: 
Lee Sherwood, Vice President
95-3121299
Employer ID No.

APPROVED AS TO FORM:


City Attorney

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

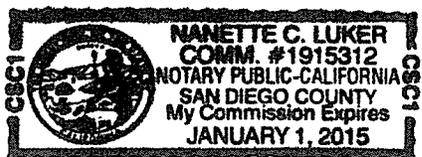
On 1/27/2011 before me, Nanette C. Luker, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Robert MacAller and Lee Sherwood
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 Nanette C. Luker
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 Encinitas, Amendment 1 to Professional Services Agreement

Document Date: _____ Number of Pages: _____

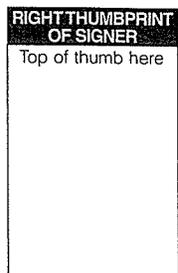
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Robert MacAller
 Individual
 Corporate Officer — Title(s): President
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____
 Signer Is Representing: _____



Signer's Name: Lee Sherwood
 Individual
 Corporate Officer — Title(s): Vice President
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____
 Signer Is Representing: _____



Certificate of Secretary

RECON ENVIRONMENTAL, INC.

I, the undersigned Secretary of RECON Environmental, Inc. ("Corporation"), hereby certify that the Corporation is organized and existing under and by the virtue of the laws of the State of California as a corporation for profit, with its principal office located at 1927 Fifth Avenue, San Diego, California 92101, and is duly authorized to transact business in the State of California.

I further certify that at a regular meeting of the Board of Directors duly called and held on January 20, 2010, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED that the following officers are elected for the term of one year:

Robert T. MacAller – President
Paul S. Fromer – Vice President

AND THAT the officers named above are empowered by the Board of Directors to enter into any contract or execute any instrument in the name of and on behalf of the Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal on December 28, 2010, and attest that the foregoing Resolutions now stand of record on the books of the Corporation and that the Resolutions are in full force and effect and have not been modified or revoked in any manner whatsoever.

CERTIFIED TO AND ATTESTED BY:



Loretta L. Gross
Secretary

Corporate Seal

1927 Fifth Avenue
San Diego, CA 92101-2358
P 619.308.9333 F 619.308.9334
www.recon-us.com

525 W. Wetmore Rd., Suite 111
Tucson, AZ 85705
P 520.325.9977 F 520.293.3051

RECON

A Company of Specialists

December 2, 2008

Mr. Jason Daffron
Project Manager
City of Oceanside
Water Utilities Department
300 N. Coast Highway
Oceanside, CA 92054

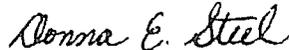
Reference: **Haymar Sewer Segment Replacement Project** (RECON Number 4663)

Dear Mr. Daffron:

Enclosed is a request to authorize additional funds for out of scope tasks performed for the Haymar Trunk Sewer Replacement Project (Project). The proposed change addresses additional analysis to evaluate a change in the Project pipeline alignment that was not in the approved contract. The additional tasks were for revisions to the wetlands technical study, biology technical study, cultural resources technical study and IS/MND. Revisions required amendments to the project description, existing graphics, recalculation of impact area and revisions to the text of the above documents prior to release of the final draft document for public review. In addition, our original scope provided up to 14 hours to prepare responses to public comments. To date we have exceeded this amount by four hours and estimate that responses are currently 50 to 75 percent complete. We request authorization for up to 20 additional hours to finalize the comments, including any anticipated revisions requested by the city during their review. These revisions are outlined in the attached scope of work.

The total request for authorization is **\$7,867**. If this is acceptable, please issue the appropriate authorization and send it to the attention of Theresa Robinson, trobinson@recon-us.com. Thank you, and if you have any questions please contact me.

Sincerely,



Donna Steel

Senior Planner

DES: emp

Enclosure
4663/chg1cov.doc

Haymar Sewer Segment Replacement Project

RECON No. 4663

Scope of Work

Task 1: Revise Biological/Wetlands Technical Studies

Prepare changes to the technical report, associated graphics and tables, and recalculate impacts to resources due to the revised pipeline alignment.

Cost: \$2,485

Task 2: Revise Cultural Resources

Prepare minor changes to the technical report and associated graphics to reflect the revised pipeline alignment.

Cost: \$709

Task 3: Revise IS/MND

Prepare changes to the text of the draft IS/MND, associated graphics and tables to reflect changes to project impacts due to revisions to the pipeline alignment.

Cost: \$2,297

Task 4: Responses to Comments

Provide up to 20 additional hours to respond to public comment letters, revise responses following City review, and coordinate with City staff to address proposed changes to the project or project mitigation.

Cost: ~~\$2,976~~
\$2,338.00

Total Cost \$7,867



CITY OF OCEANSIDE

WATER UTILITIES DEPARTMENT

December 16, 2008

Ms. Donna Steel
RECON Environmental, Inc.
1927 Fifth Avenue
San Diego, CA 92101-2358

**RE: Haymar Sewer Replacement Project – Environmental Services
[722-86-5477]**

Dear Ms. Steel:

I have carefully reviewed your request for additional funds for the above referenced project in the amount of \$7867.00; broken down into 4 tasks as follow:

- Task 1 – Revise Biological/Wetlands Technical Studies; \$2485
- Task 2 – Revise Cultural Resources; \$709
- Task 3 – Revise IS/MND; \$2297
- Task 4 – Responses to Comments; \$2376

I am unable to increase the amounts requested for tasks 1 through 3 as broken down in your request. It is my conclusion that these tasks fall within the original scope of the project. I have also concluded that the additional Response to Comments (Task 4) is warranted and I will increase the contract amount by ~~\$2376.00~~ as you have requested.
\$2338.00

If you have any further questions or concerns, please call me at (760) 435-5811.

Sincerely,

Jason Dafforn
Project Manager

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

**PROJECT: HAYMAR SEWER REPLACEMENT PROJECT –
ENVIRONMENTAL SERVICES – 909978000722**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter “Amendment”) is made and entered this 27th day of January 2011, by and between the City of Oceanside, Water Utilities Department, a municipal corporation, hereinafter designated as “DEPARTMENT”, and RECON ENVIRONMENTAL, INC., hereinafter designated as “CONSULTANT”.

RECITALS

WHEREAS, DEPARTMENT and CONSULTANT are the parties to that certain Professional Services Agreement dated April 11, 2008, hereinafter referred to as the “Agreement”, wherein CONSULTANT agreed to provide certain services to the DEPARTMENT set forth therein;

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Section 1, Scope of Work, Section 2, Timing Requirements and Section 13, 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 the required revisions to the MND as described and outlined in the proposal letter dated December 6, 2010, (Exhibit A) and scope of work dated (revised 11-7-10).
2. Section 2, Timing Requirements, shall be amended to reflect the additional 16-week work schedule from the notice to proceed for Amendment 2 as outlined in the proposal letter dated December 6, 2010 and scope of work dated (revised 11-7-10).
3. Section 13, Compensation, shall be amended to reflect that all work performed in accordance with this Amendment 2 shall not exceed \$26,769.
4. Except as expressly set forth in the Amendment, the Agreement shall remain in full force and effect and is hereby ratified and reaffirmed.

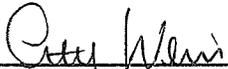
SIGNATURES. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the DEPARTMENT.

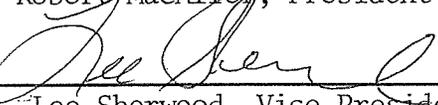
IN WITNESS WHEREOF, the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the Agreement, including this Amendment and have caused this Amendment to be executed by setting hereunto their signatures this 27th day of January, 2011.

RECON ENVIRONMENTAL, INC.

CITY OF OCEANSIDE

By: 
Robert MacAllen, President

By: 
Peter A. Weiss, City Manager

By: 
Lee Sherwood, Vice President
95-3121299

APPROVED AS TO FORM:

Employer ID No.


Barbara Hamilton, ASST.
City Attorney

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

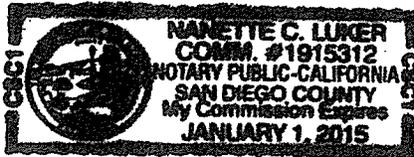
State of California

County of San Diego

On 1/27/2011 before me, Nanette C. Luker, Notary Public

personally appeared Robert MacAller and Lee Sherwood

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 Nanette C. Luker

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 Amendment 2 to Professional Services Agreement

Document Date: _____ Number of Pages: _____

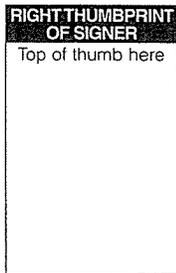
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Robert MacAller

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

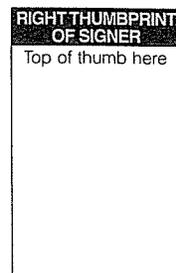
Signer Is Representing: _____



Signer's Name: Lee Sherwood

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

Signer Is Representing: _____



1927 Fifth Avenue
San Diego, CA 92101-2357
P 619.308.9333 F 619.308.9334
www.reconenvironmental.com

525 W. Wetmore Rd., Suite 111
Tucson, AZ 85705
P 520.325.9977 F 520.293.3051

1412 W. 6th 1/2 Street
Austin, TX 78703-5150
P 512.913.1200 F 512.474.1184

RECON

A Company of Specialists

December 6, 2010

Mr. Jason Dafforn
Water Utilities Division
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Reference: **Haymar Sewer Segment Replacement Project (RECON 4663-2)**

Dear Mr. Dafforn:

RECON is pleased to submit the enclosed scope of work and cost proposal to modify the Final IS/MND for the Haymar Sewer Segment Replacement Project. The effort is requested to address proposed changes in the construction technology to be employed. Currently the project considers installation of pipeline via surface trenching. The project would be changed to employ trenchless technology, with a goal of reducing potential impacts to resources.

These changes will be addressed through recirculation of the previously submitted IS/MND (January 2009). The recirculated document will include an Errata/Note to Reviewers, revisions to the project description and issue discussions. In addition to updating text, graphics and required mitigation measures, previously prepared responses to comments will be revised to reflect project changes. RECON recognizes that the use of directional drill technology is intended to minimize or avoid impacts identified in the IS/MND and therefore is expected to reduce the overall effect of the project. Construction plans will be reviewed to ensure that no new impacts would result.

In summary, given that the draft Final IS/MND has not been certified, RECON will update the following:

- Biological and Cultural Resources Technical Studies (note: no new surveys will be performed and no additional coordination with the Wildlife Agencies, NAHC or tribe is anticipated)
- IS/MND Note to Reviewers (Errata) –a summary of changes to the project will be included as well as direction to the public to restrict comments to revised text only.
- IS/MND - Issue sections will be updated to reflect impacts of proposed construction changes
- Responses to Comments on the 2009 Draft IS/MND will not be included with the recirculated IS/MND. Previously prepared responses were reviewed and approved by the City. Where project changes result in the need for revision, responses will be updated. All other responses will be retained. Comments and prepared responses will be included in the Final IS/MND to be presented to decision makers.
- Responses to Comments on the Recirculated IS/MND – Effort will include preparation of responses to comments received on text revisions included in the recirculated IS/MND.

Mr. Jason Dafforn
Page 2

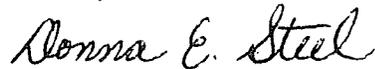
Additional comments and responses on the recirculated document will be included in the Final IS/MND to be presented to decision makers.

- MMRP - RECON will revise mitigation as appropriate in response to comments received and proposed changes in construction technology for implementation of the project.

The estimated total cost to complete these tasks is **\$26,769**. This includes \$650 for expenses such as printing or reproduction and delivery. If you would like to proceed with the work please provide appropriate authorization to the attention of Theresa Robinson, trobenson@reconenvironmental.com.

Thank you and please call if you have any questions.

Sincerely,



Donna E. Steel
Senior Environmental Planner

DES: dnt

Enclosure
4663-2/CoverLtr.doc

1.0 Project Understanding and Approach

The City of Oceanside has a need to modify the Draft IS/MND prepared to assess “emergency” replacement of a segment of the Haymar Trunk Sewer located in or near the Buena Vista Creek bed. Proposed construction technology has been changed for replacement of the approximate 400-foot segment of the exposed 15-inch gravity sewer line from its current location within or adjacent to Buena Vista Creek by installing a parallel section using directional drill technology in the adjacent access road.

RECON is pleased to submit the following amended scope of work in response to the City’s Request to revise the Draft IS/MND for recirculation to the public to solicit input pursuant to planned changes in construction methodology.

In addition to performing requested updates to the project description, associated technical studies and issue discussions in the Draft IS/MND, RECON has included time to coordinate with staff and to attend one City Council hearing for MND approval.

2.0 Scope of Work

2.1 Archaeological/Historical Resources

- Revise technical report (text and graphics) to update the project description, revise discussion of significance of potential effects and required mitigation. The revisions to the report will be based on the resource information provided in the previous document, and no additional field work, record checks, or coordination with the Native Americans is proposed.
- Submit the revised report to the City.
- Provide one set of revisions to the cultural resources technical report based on comments from the client.

2.2 Biological Resources

- Based on the existing wetlands technical report and biological resource mapping performed in 2008, RECON will revise the biological technical report project description to update the discussion of proposed construction to utilize directional drill technology. The revisions to the report will be based on the resource information provided in the previous document, and no additional field work, record check or resource agency consultation is proposed. The biological resources study analysis will be amended to address the potential project impacts and required mitigation measures consistent with the revised plan.
- Using base mapping previously provided by the client, RECON will update document maps of potential impacts consistent with proposed changes to the project.

- Submit the report to the client.
- Provide one set of revisions to the biological technical report based on comments from the client.
- Provide one set of revisions to the biological technical report based on comments from the resource agencies.

Due to the age of original surveys, additional studies may be required by the resources agencies. These and any other special studies would only be conducted with additional authorization from the client.

2.4 Draft IS/MND

Revisions to the Draft IS/MND will focus on changes to the proposed construction method to use directional drill technology. To complete revisions to the document, the Client will provide RECON a revised construction design report with sufficient detail showing the revised construction footprint (showing the location of proposed jack and bore pit locations), pipeline alignment, staging areas, quantities of excavation and export, and duration of equipment use as it may apply. To prepare the Draft IS/MND, RECON will:

- Review changes to the project as provided by the City of Oceanside and the project engineer. Modifications to the project description are expected to be primarily focused on the location and physical characteristics of directional drilling features. Based on updates to technical studies and environmental IS, RECON will revise the Draft MND.
- The environmental Initial Study (IS) checklist (CEQA Guidelines Appendix G) will be reviewed and updated to identify impacts resulting from the proposed change in construction method. A preliminary review indicates that revisions to the IS checklist discussion to address pipeline construction methods will be required for the following: Project Description, Section III-Geology/Soils, VII-Biological Resources, XIII-Aesthetics, X-Noise, XIII-Aesthetics, XIV-Cultural/Paleontological Resources. Mitigation measures for all issues will be updated as appropriate.
- Transmit five copies of the Draft environmental document to the City of Oceanside for review. Perform one set of revisions based on City of Oceanside comments. Transmit one original, one unbound copy, one PDF version (including appendices) and 25 bound copies of the revised document to the City of Oceanside for public review distribution.
- Modify the previous notice of intent to adopt an MND for the project, consistent with CEQA Guidelines §15072. Submit the notice to the City of Oceanside staff for review, make one set of revisions, and submit the notice to the City of Oceanside for distribution and/or publication with the Draft MND.

2.5 Response to MND Comments

RECON understands that the City will circulate the entire MND for public review and that the public review will indicate that interested parties will need to provide comments only on revisions to the project and analysis as indicated in strikeout/underline text in the recirculated Draft IS/MND. Comments submitted on the recirculated IS/MND and those submitted during the initial circulation period for the Draft IS/MND will be addressed in the City's formal Responses to Comments. RECON will provide up to 42 hours to prepare responses to comments on the recirculated document and revise responses to comments submitted during the initial circulation period (2009) of the Draft IS/MND. Provide responses to comments to the City of Oceanside for review and complete one set of revisions.

2.6 Final MND

RECON will:

- Prepare Final MND, including responses to comments received on the draft document. If revisions to the IS or MND are required as a result of the additional public review they will be completed as an additional item if so authorized.
- Revise the mitigation monitoring and reporting program (MMRP) and submit to City staff for review and comment. Incorporate one set of revisions to the MMRP for inclusion in the Final MND
- Prepare a notice of determination consistent with CEQA Guidelines §15075 and transmit to the City of Oceanside for filing.
- Prepare up to eight copies of the negative declaration or MND, IS, and notices for the public hearing.

2.7 Meetings

RECON will expend up to eight hours for meetings and consultation by telephone with the City of Oceanside and project engineer during preparation of the IS and MND. This includes attendance at one meeting of the City Council, if requested by staff, at which the project will be considered.

Hourly Billing Rates

RECON's current hourly billing rates are shown in Table 1 below. These rates will remain valid through the duration of the contract. The hours by task to complete the scope of work is provided in Table 2.

Table 1

Position	Rate
Principal	\$202.00
Senior	\$167.00
Associate	\$135.00
Analyst	\$112.00
Production Supervisor	\$80.00
GIS Specialist	\$88.00

Table 2

Hours	Principal	Senior	Associate	Analyst	Production	Graphics	Total Hours
Technical Studies							
Cultural Resources	0	0	8	0	2	4	14
Biology	0	2	6	0	1	4	13
IS/MND	4	57	0	92	18	10	181
Total Hours	4	59	14	92	21	18	208
Cost							
	Principal	Senior	Associate	Analyst	Production	Graphics	Total Cost
	<i>Rate</i>	202	167	135	112	80	88
Technical Studies							
Cultural Resources	\$0	\$0	\$1,080	\$0	\$160	\$352	\$1,592
Biology	\$0	\$334	\$810	\$0	\$80	\$352	\$1,576
IS/MND	\$808	\$9,519	\$0	\$10,304	\$1,440	880	\$22,951
Total Labor Cost	\$808	\$9,853	\$1,890	\$10,304	\$1,680	\$1,584	\$26,119
Expenses							\$650
Total Labor and Expenses							\$26,769

Schedule

Upon issuance of the Notice to Proceed (NTP) and receipt of revised plans showing the location of jack and bore pits and other construction-related changes, RECON will perform the above tasks per the schedule provided in Table 3.

Table 3

Schedule	Time Expended from NTP
Update Revise Technical Studies and submit for Review	Weeks 1, 2
Update Draft IS/MND/Word Processing	Weeks 1-5
City Review and Comment on revised Draft IS/MND	Weeks 6-7
RECON to Revise Draft Documents and Print Public Review copies for 30-Day Public Review	Weeks 7-8
Respond to Comments	Weeks 8-12
City Review/Comment on Draft Responses	Weeks 12-13
RECON to Revise Responses and IS/MND per staff comments. NOD	Weeks 14
Hearing	Weeks 15-16
	Approx Week 16

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

**PROJECT: HAYMAR SEWER REPLACEMENT PROJECT –
ENVIRONMENTAL SERVICES – 9099978000722**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered this 27th day of January 2011, by and between the City of Oceanside, Water Utilities Department, a municipal corporation, hereinafter designated as "DEPARTMENT", and RECON ENVIRONMENTAL, INC., hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS, DEPARTMENT and CONSULTANT are the parties to that certain Professional Services Agreement dated April 11, 2008, hereinafter referred to as the "Agreement", wherein CONSULTANT agreed to provide certain services to the DEPARTMENT set forth therein;

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Section 1, Scope of Work, Section 2, Timing Requirements and Section 13, 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 the required as needed biological and archeological monitoring and reporting as described and outlined in the scope of work and proposal letter dated January 13, 2011, (Exhibit A).

2. Section 2, Timing Requirements, shall be amended to reflect an additional 6-week work schedule from the notice to proceed for Amendment 3 on an as needed bases as described and outlined in the scope of work and proposal letter dated January 13, 2011.

3. Section 13, Compensation, shall be amended to reflect that all work performed in accordance with this Amendment 3 shall not exceed \$59,432.

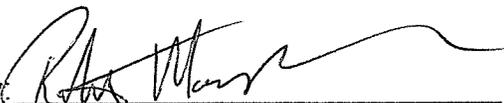
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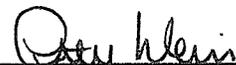
SIGNATURES. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the DEPARTMENT.

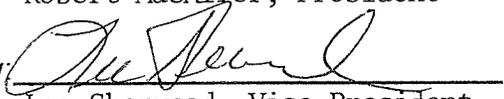
IN WITNESS WHEREOF, the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the Agreement, including this Amendment and have caused this Amendment to be executed by setting hereunto their signatures this 27th day of January, 2011.

RECON ENVIRONMENTAL, INC.

CITY OF OCEANSIDE

By: 
Robert MacAller, President

By: 
Peter A. Weiss, City Manager

By: 
Lee Sherwood, Vice President
95-3121299

APPROVED AS TO FORM:

Employer ID No.


City Attorney

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On 1/27/2011 before me, Nanette C. Luker, Notary Public
Date Here Insert Name and Title of the Officer

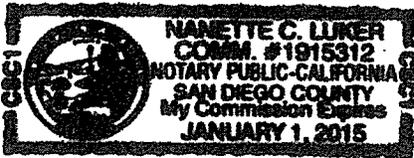
personally appeared Robert MacAller and Lee Sherwood
Name(s) of Signer(s)

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 Nanette C. Luker
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, City of Oceanside

Document Date: _____ Number of Pages: _____

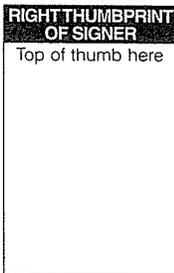
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Robert MacAller

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

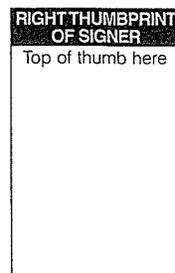
Signer Is Representing: _____



Signer's Name: Lee Sherwood

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

Signer Is Representing: _____



Certificate of Secretary

RECON ENVIRONMENTAL, INC.

I, the undersigned Secretary of RECON Environmental, Inc. ("Corporation"), hereby certify that the Corporation is organized and existing under and by the virtue of the laws of the State of California as a corporation for profit, with its principal office located at 1927 Fifth Avenue, San Diego, California 92101, and is duly authorized to transact business in the State of California.

I further certify that at a regular meeting of the Board of Directors duly called and held on January 20, 2010, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED that the following officers are elected for the term of one year:

Robert T. MacAller – President
Paul S. Fromer – Vice President

AND THAT the officers named above are empowered by the Board of Directors to enter into any contract or execute any instrument in the name of and on behalf of the Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal on December 28, 2010, and attest that the foregoing Resolutions now stand of record on the books of the Corporation and that the Resolutions are in full force and effect and have not been modified or revoked in any manner whatsoever.

CERTIFIED TO AND ATTESTED BY:



Loretta L. Gross
Secretary

Corporate Seal

1927 Fifth Avenue
San Diego, CA 92101-2357
P 619.308.9333 F 619.308.9334
www.reconenvironmental.com

525 W. Wetmore Rd., Suite 111
Tucson, AZ 85705
P 520.325.9977 F 520.293.3051

1412 W. 6th 1/2 Street
Austin, TX 78703-5150
P 512.913.1200 F 512.474.1184

RECON

A Company of Specialists

January 13, 2011

Mr. Jason Daffron
Project Manager
City of Oceanside
Water Utilities Department
300 N. Coast Highway
Oceanside, CA 92054

Reference: **Emergency Haymar Sewer Segment Replacement Project** (RECON P4663-3)

Dear Mr. Daffron:

RECON is pleased to submit the enclosed scope of work and cost proposal to provide biological and archaeological monitoring services for the Emergency Haymar Sewer Segment Replacement project.

Tasks will include:

Up to 240 hours of biological monitoring and a monitoring report

Up to 240 hours of archaeological monitoring and a monitoring report.

The estimated total cost to complete these tasks is **\$59,432**, on a time and material basis.

The City has determined that this project is exempt from CEQA because it is an emergency and there is insufficient time to process the MND and implement mitigation identified in the 2009 report by RECON.

If you would like to proceed with the work send appropriate authorization to the attention of Theresa Robinson, trobenson@reconenvironmental.com. Thank you and please call if you have any questions.

Sincerely,



Carmen Zepeda-Herman
Project Manager

CZH: dnt

Enclosure
P4663-3/CoverLtrREV.doc

Emergency Haymar Sewer Segment Replacement
City of Oceanside

P4663-3
January 13, 2011

Scope of Work

Archaeological Mitigation Monitoring

Attend four hours of a pre-construction meeting with client. *AM1020*

Coordinate with construction coordinator. *AM1060*

Provide up to 240 hours of archaeological monitoring for emergency pipeline repairs, pits, and associated road regrading. Hourly rates range from \$62 to \$112 per hour for a maximum cost of \$23,280. To maximize cost savings, staff will be chosen based on availability and minimum qualifications required. Frequency of monitoring will be determined as the project progresses based on recommendations provided by the monitoring archaeologist(s). *AM1070*

Prepare a post-monitoring report to be submitted to the City of Oceanside detailing the results of the monitoring program. *AM1080*

Notes:

This scope of work assumes that no potentially significant cultural deposits, such as features, are found. Should such cultural deposits be identified additional effort will be required, at additional cost. The client will be notified upon discovery of such deposits. No out of scope work will be performed without first obtaining an authorization to proceed.

It is not anticipated that human remains will be discovered during monitoring. Should the unlikely discovery of human remains be made, additional effort will be required, at additional cost. Any work undertaken on human remains must comply with state regulations for the treatment of such material.

Total Cost Not to Exceed: \$26,716

Scope of Work

Biological Monitoring and Letter Report

1. Conduct up to 240 hours of biological monitoring for emergency pipeline repairs and associated road regrading. Hourly rates range from \$95 to \$167 per hour for a maximum cost of \$30,540. To maximize cost savings, staff will be chosen based on availability and minimum qualifications required. Frequency of monitoring will be determined as the project progresses based on recommendations provided by the monitoring biologist(s). *BM1060*

Using a GPS unit with sub-meter accuracy, the monitoring biologist will verify existing vegetation mapping within the project area prior to initiation of construction, as well as record actual impact limits following completion of construction. The total GPS unit usage fee is estimated at \$150 (\$50 per day for three days). *BM1060*

2. Prepare a post-construction monitoring report to document construction and monitoring activities, impact avoidance measures, actual impacts to biological resources, and mitigation measures according to the IS/MND (RECON 2009), if necessary. *BM1070*

Total Cost Not to Exceed: \$32,716

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

**PROJECT: HAYMAR SEWER SEGMENT REPLACEMENT PROJECT
ARCHEOLOGICAL INVESTIGATION – [909547700722]**

THIS AGREEMENT, dated January 11, 2011 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and AFFINIS ENVIRONMENTAL SERVICES, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described as follows:
 1. Perform Phase I – Surface Collection and Excavation to include 10 ea 1x1 meter pits
 2. Compare results of Phase I to the Gallegos and Associates report as outlined in the MND
 3. Prepare a Data Recovery Plan to be utilized during construction
 4. Perform all other pertinent work for Phase I as outlined in the attached proposal

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 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 this Agreement.

HAYMAR SEWER SEGMENT REPLACEMENT PROJECT – ARCHEOLOGICAL INVESTIGATION – [909547700722]

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*

or

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
---------------------------------------	--------------

*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

HAYMAR SEWER SEGMENT REPLACEMENT PROJECT – ARCHEOLOGICAL INVESTIGATION – [909547700722]

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 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 One Million Dollars (\$1,000,000.00).

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

HAYMAR SEWER SEGMENT REPLACEMENT PROJECT – ARCHEOLOGICAL INVESTIGATION – [909547700722]

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. **COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of \$68,600.

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. All work shall be completed in every detail to the satisfaction of the Engineer within 4 weeks after issuance of the Notice to Proceed.

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.

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.

HAYMAR SEWER SEGMENT REPLACEMENT PROJECT – ARCHEOLOGICAL INVESTIGATION – [909547700722]

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.

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 on the dates set forth below.

AFFINIS ENVIRONMENTAL SERVICES

CITY OF OCEANSIDE

By: M Busdosh
Name/Title Michael Busdosh, President

By: Chris Wieris
City Manager

Date: 7-13-10

Date: 1-11-11

By: Mary Robbins-Wade
Name/Title Mary Robbins-Wade
Secretary - Director of Cultural Resources

APPROVED AS TO FORM:

Date: 7/13/2010

Robert Samuel Horn, Esq.

33-0581381
Employer ID No.

City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

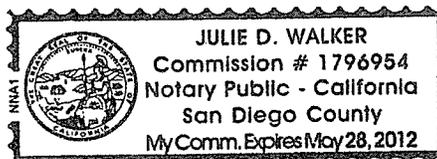
ACKNOWLEDGMENT

State of California
County of San Diego ss.

On July 13, 2010 before me, **Julie D. Walker, Notary Public**, personally appeared Michael Busdosh and Mary Robbins Wade, 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 signatures(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.



Julie D. Walker
Signature

(seal)

OPTIONAL INFORMATION

Description of Attached Document

Title or Type of Document: City of Oceanside - Professional Services Agreement

Document Date: 7/13/10 Number of Pages: 5

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Individual
- President Vice President Secretary Treasurer
- Attorney in Fact
- Trustee
- Other: _____

Signer is Representing Affinis, Inc



June 30, 2010

Greg Blakely
Administration Manager
City of Oceanside, Water Utilities Department
300 North Coast Highway
Oceanside, California 92054

Reference: Haymar Sewer Segment Replacement Project -- Archaeological Data
Recovery Proposal

Mr. Blakely:

Affinis is pleased to provide this proposal for conducting the archaeological data recovery program for the replacement of a segment of the Haymar Sewer per the Mitigated Negative Declaration issued on August 29, 2008. This letter proposal includes a detailed scope of work, cost proposal, and a summary of Affinis' experience in the City of Oceanside and with projects in support of emergency construction.

Scope of Work

The scope of work is based on our review of the MND and *Cultural Resources Survey for the Haymar Sewer Segment Replacement Project, Oceanside California*, as well as our experience in the immediate vicinity, including archaeological monitoring at this site (CA-SDI-5652/H) for the rehabilitation of the Vista-Carlsbad Interceptor Sewer. The proposed scope of work is as follows:

1. Map and collect all surface artifacts within the project area; mapping will be done using GPS;
2. Excavate 10 1-m by 1-m units within the permanent impacts area; units will be terminated after two sterile 10-cm levels; soil will be screened through 1/8-in. mesh;
3. Collect column samples from two of the excavation units;
4. Prepare a site map showing the locations of surface artifacts, excavation units, etc.;
5. Clean, sort, catalog, and analyze all cultural material collected;
6. Process the column samples through flotation to extract the light fraction, which will be submitted for macrobotanical analysis;
7. Subcontract ancillary studies, including faunal analysis (animal bone and shell), radiocarbon dating, and macrobotanical analysis;
8. Compare the results of the Phase I study with the previous work by Gallegos and Associates (Kyle, Phillips, and Gallegos 2002) to assess redundancy of data and determine the need for additional phases of fieldwork;

9. Prepare a comprehensive report detailing the methods and results of the data recovery program;
10. Curate the cultural material collected, as well as maps, field notes, catalogs, etc., at the San Diego Archaeological Center or other suitable repository meeting state and federal curatorial standards; note that the San Luis Rey Band of Luiseno Mission Indians might request that cultural material be repatriated to them, rather than curated at the San Diego Archaeological Center.

Phases II and III

Based on the comparison of the Phase I results with the earlier study by Gallegos and Associates (Kyle, Phillips, and Gallegos 2002), the need for a Phase II would be determined. If there is redundancy in the data, no further work would be required. If unexpected features are encountered or the cultural material recovered is more varied than anticipated, an additional seven excavation units would be excavated as Phase II. The field and laboratory methods for Phase II would be the same as Phase I. This proposal assumes that additional column samples would not be processed, but radiocarbon and faunal analyses are assumed.

If the data generated by the Phase II study indicates that there is sufficient variability to warrant additional excavation to obtain a larger sample size, Phase III would be implemented. This phase would entail excavation of 17 additional 1 m by 1 m units. Again, field and laboratory methods would be similar to those of Phases I and II. Similar analyses would be conducted, but column samples and macrobotanical analysis are not assumed for this phase.

Cost

The proposed not-to-exceed cost for the scope of work detailed for Phase I is \$68,600, including labor and materials. The costs are detailed in the attached spreadsheet. All analysis costs are a direct pass-through with no mark-up. Curation costs are \$700/box. This proposal assumes four boxes of material, for a total of \$2800, which is included in the cost listed above. Actual curation costs will be billed as a direct-pass through.

The cost of Phase II (field and laboratory work for excavation of seven additional units, radiocarbon and faunal analysis, incorporating these data into the report, and curation) is estimated at \$44,600.

The cost of Phase III (field and laboratory work for excavation of 17 additional units, radiocarbon and faunal analysis, incorporating these data into the report, and curation) is estimated at \$86,500.

Native American Monitoring

This proposal does not include Native American monitoring, as it was not included in the MND. However, the site is known to be of importance to the Luiseño people, in particular the San Luis Rey Band of Luiseño Mission Indians. We assume the City will contract

directly with the San Luis Rey Band and Saving Sacred Sites for the Native American monitoring on this project.

Relevant Experience

Affinis conducted the archaeological survey for the Vista/Carlsbad Interceptor Sewer Rehabilitation project, which is located in proximity to the Haymar Sewer Segment. Affinis also conducted the archaeological monitoring program at CA-SDI-5652/H (the subject of the proposed data recovery program) for the Vista-Carlsbad Interceptor Sewer Rehabilitation project. Affinis is the cultural resources consultant for the Former South Coast Materials Quarry Amended Reclamation Plan, located just east of the Haymar Sewer Segment Replacement project area. As such, Ms. Robbins-Wade and the other Affinis archaeologists are familiar with the sensitive cultural resources in this area and have been working with the concerned parties. As part of the City of San Diego's Master Storm Water Maintenance Program, Affinis has conducted archaeological surveys and monitoring for several emergency maintenance projects in recent months. We have also conducted surveys and monitoring for emergency construction projects for the City of San Diego Metropolitan Wastewater Department. Affinis has conducted numerous archaeological studies in the City of Oceanside, including surveys and monitoring projects for the Water Utilities Department.

Schedule

The RFP indicates that the work must be completed within four weeks of Notice to Proceed. We can submit a draft report within that timeframe, to allow the City to move forward with the project, but it must be noted that the outside analyses, such as radiocarbon dating and faunal analysis, could not reasonably be guaranteed in that time period. Much of the analysis must be completed in order to determine the need for additional phases of fieldwork. If Phases II and III are determined to be necessary, it would push the completion date beyond the four-week timeframe.

If you have any questions, please call me at (619) 441-0144 extension 18 or e-mail at mary@affinis.net. We look forward to the opportunity to work with you on this project.


Mary Robbins-Wade
Director of Cultural Resources



SCHEDULE OF FEES

Project Manager/Senior Scientist	120.00
Principal Scientist	110.00
Senior Analyst	100.00
Project Scientist	100.00
Research Analyst	85.00
Staff Scientist	70.00
Field/Lab/Crew	65.00
Word Processor	55.00
Graphic Artist	55.00
Archaeological monitor	560.00 per day

*Materials billed at cost.

*Mileage billed at \$0.58 per mile

**Haymar Sewer Replacement Data Recovery
Affinis Cost Proposal**

Task	Days	Hours	Rate	Cost
Field				
Project Arch.	1	8.0	\$100.00	\$800.00
Staff Arch.	7	56.0	\$70.00	\$3,920.00
Crew Arch.	30	240.0	\$65.00	\$15,600.00
Subtotal				\$20,320.00
Lab – wash, sort, catalog, analysis, flotation				
Project Arch.	1	8.0	\$100.00	\$800.00
Staff Arch.	9	72.0	\$70.00	\$5,040.00
Crew Arch.	26	208.0	\$65.00	\$13,520.00
Subtotal				\$19,360.00
Report				
Project Arch.		72	\$100.00	\$7,200.00
Staff Arch.		16	\$70.00	\$1,120.00
Crew Arch.		8	\$65.00	\$520.00
Subtotal				\$8,840.00
Meetings				
Project Arch.		4	\$100.00	\$400.00
Subtotal				\$400.00
Ancillary Studies				
Radiocarbon analysis		10	595	\$5,950.00
Faunal (animal bone) analysis				\$3,000.00
Shell analysis				\$2,000.00
Macrobotanical analysis		20	200	\$4,000.00
Subtotal				\$14,950.00
Materials				
Supplies				\$115.00
Photo processing				\$115.00
Mileage				\$1,300.00
Report copying				\$400.00
Subtotal				\$1,930.00
Total Labor				\$48,920.00
Subcontracts				\$14,950.00
Total Materials				\$1,930.00
Curation				\$2,800.00
Grand Total				\$68,600.00

**Haymar Sewer Replacement Data Recovery – Phase II
Affinis Cost Estimate**

Task	Days	Hours	Rate	Cost	
Field					
Project Arch..	1	8.0	\$100.00	\$800.00	
Staff Arch.	4	32.0	\$70.00	\$2,240.00	
Crew Arch.	20	160.0	\$65.00	\$10,400.00	
					\$13,440.00
Lab – wash, sort, catalog, analysis					
Project Arch..	1	8.0	\$100.00	\$800.00	
Staff Arch.	6	48.0	\$70.00	\$3,360.00	
Crew Arch.	22	176.0	\$65.00	\$11,440.00	
					\$15,600.00
Report (incorporate into data recovery report)					
Project Arch..		24	\$100.00	\$2,400.00	
Staff Arch.		8	\$70.00	\$560.00	
Crew Arch.		4	\$65.00	\$260.00	
					\$3,220.00
Meetings					
Project Arch..		4	\$100.00	\$400.00	
					\$400.00
Ancillary Studies					
Radiocarbon analysis		7	595	\$4,165.00	
Faunal (animal bone) analysis				\$2,500.00	
Shell analysis				\$1,500.00	
					\$8,165.00
Materials					
Supplies				\$100.00	
Photo processing				\$100.00	
Mileage				\$775.00	
					\$975.00
Total Labor				\$32,660.00	
Subcontracts				\$8,165.00	
Total Materials				\$975.00	
Curation				\$2,800.00	
Grand Total				\$44,600.00	

**Haymar Sewer Replacement Data Recovery – Phase III
Affinis Cost Proposal**

Task	Days	Hours	Rate	Cost	
Field					
Project Arch.	2	16.0	\$100.00	\$1,600.00	
Staff Arch.	10	80.0	\$70.00	\$5,600.00	
Crew Arch..	45	360.0	\$65.00	\$23,400.00	
					\$30,600.00
Lab – wash, sort, catalog, analysis					
Project Arch.	1	8.0	\$100.00	\$800.00	
Staff Arch.	20	160.0	\$70.00	\$11,200.00	
Crew Arch..	40	320.0	\$65.00	\$20,800.00	
					\$32,800.00
Report (incorporate into data recovery report)					
Project Arch.		20	\$100.00	\$2,000.00	
Staff Arch.		8	\$70.00	\$560.00	
Crew Arch..		4	\$65.00	\$260.00	
					\$2,820.00
Meetings					
Project Arch.		4	\$100.00	\$400.00	
					\$400.00
Ancillary Studies					
Radiocarbon analysis		15	595	\$8,925.00	
Fauanl (animal bone) analysis				\$4,000.00	
Shell analysis				\$2,000.00	
					\$14,925.00
Materials					
Supplies				\$115.00	
Photo processing				\$115.00	
Mileage				\$1,925.00	
					\$2,155.00
Total Labor				\$66,620.00	
Subcontracts				\$14,925.00	
Total Materials				\$2,155.00	
Curation				\$2,800.00	
Grand Total				\$86,500.00	



Affinis Director of Cultural Resources, Mary Robbins-Wade, has been active in San Diego archaeology since 1978. She has extensive experience with all phases of archaeological studies (literature search, survey, testing, data recovery, preservation strategies, monitoring) on a variety of site types in a range of settings. Her duties as Project Manager/Project Archaeologist have included numerous public works-related studies, including sewer and water line replacement, the Clean Water Program, roadways, MTDB facilities, park projects, and work for the Sweetwater Authority on various facilities.

Affinis conducted the archaeological survey and provided archaeological monitoring in 2006 for the City of Vista for sewer line work in proximity to the Haymar Sewer Segment Replacement project (Vista-Carlsbad Interceptor Sewer Rehabilitation Project). Affinis also is the cultural resources consultant for the Former South Coast Materials Quarry Amended Reclamation Plan, located just east of the Haymar Sewer project area. As such, Ms. Robbins-Wade and the other Affinis archaeologists are familiar with the sensitive cultural resources in this area and have been working with the concerned parties. Affinis has conducted archaeological surveys for several drainage improvement projects for the City of Oceanside Water Utilities Department. These projects included both CEQA review and Section 106 compliance for review by the Army Corps of Engineers and US Fish and Wildlife Service. Affinis prepared the cultural resources study for the Program EIR for the City of San Diego's Master Storm Water Maintenance Program. As part of the Storm Water Maintenance Program Affinis archaeologists have recently conducted archaeological surveys for planned maintenance activities. During the recent rainy season Affinis conducted surveys and monitoring for emergency maintenance for the Storm Water Maintenance Program. Ms. Robbins-Wade has served as the Project Archaeologist/ Project Manager for all of these studies. Other water department work has included archaeological surveys for the Clean Water Program of Greater San Diego, Sweetwater Authority, Rancho California Water District, Metropolitan Water District, Olivenhain Municipal Water District, Valley Center Municipal Water District, the Water Utilities Departments of the Cities of San Diego and Oceanside, and several smaller water agencies, as well as proposed sewer improvements for the City of Vista. Testing programs have been conducted for projects for the Sweetwater Authority, the Clean Water Program, and the City of San Diego Water Utilities Department. Affinis completed a data recovery program at a significant archaeological site in the Salt Creek area for the San Diego County Water Authority. Affinis archaeologists have provided construction monitoring services for dozens of sewer and water projects in the City of San Diego, as well as the Cities of Oceanside, Vista, La Mesa, the San Elijo Joint Powers Authority, and the Lake Morena Oak Shores Mutual Water Company.