



DATE: May 26, 2010

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **AMENDMENT 5 TO THE PROFESSIONAL SERVICES AGREEMENT WITH RICK ENGINEERING COMPANY FOR GEOTECHNICAL OBSERVATION AND SPECIAL TESTING SERVICES FOR THE CONSTRUCTION OF THE LOMA ALTA CREEK DETENTION BASIN AT EL CAMINO REAL**

SYNOPSIS

Staff recommends that the City Council approve Amendment 5 in the amount of \$98,808 to the professional services agreement with Rick Engineering Company for engineering services for the Loma Alta Creek Detention Basin at El Camino Real project, adding to the scope of work, and geotechnical observation and special testing services for the project; and authorize the City Manager to execute the amendment.

BACKGROUND

The Loma Alta Creek Detention Basin at El Camino Real, which will be east of El Camino Real and south of Oceanside Boulevard, is one of three basins planned to alleviate downstream flooding along Loma Alta Creek. Completion of all three basins will remove the flood insurance requirements for many downstream properties.

The first basin, along Garrison Creek at the southeast corner of Mesa Drive and Oceanside Boulevard, was completed in February 2006. Portions of the two detention basins at El Camino Real and Rancho del Oro Drive parallel to the Sprinter Rail were completed in April 2006. During the design process, it was determined that due to the construction of the Sprinter Rail, it would be best for the City of Oceanside to pay North County Transit District (NCTD) to construct those portions of the detention basin walls that are parallel to the Sprinter Rail. The El Camino Real Detention Basin is currently in construction and is scheduled to be completed by end of 2010. The remaining walls for Rancho del Oro Detention Basin will begin construction in fall of 2011.

ANALYSIS

The original Professional Services Agreement (Exhibit A) in the amount of \$116,100 for preparation of plans and specifications for the Loma Alta Creek Detention Basin at El Camino Real was approved by Council on March 3, 2004.

The processing of Amendments 1 through 4 (Exhibits B-E) were primarily due to impacts resultant from construction of the SPRINTER basin walls.

Amendment 5 (Exhibit F) in the amount of \$98,808 will cover the cost of providing construction support, geotechnical observation, and special testing for the construction of the El Camino Real Detention Basin project. Amendment 5 is necessary for on-site construction support that is outside of the design phase scope of work.

FISCAL IMPACT

This amendment would bring the total contract amount to \$327,113. The current balance in the FY 2009-10 Capital Improvement Program for the Loma Alta Creek Detention Basin at El Camino Real (905745100520) has an approximate balance of \$2.9 million. Therefore, sufficient funds are available for this project.

INSURANCE REQUIREMENTS

The City's standard insurance requirements have been met and are currently in effect.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATION

Staff recommends that the City Council approve Amendment 5 in the amount of \$98,808 to the professional services agreement with Rick Engineering Company for engineering services for the Loma Alta Creek Detention Basin at El Camino Real project, adding to the scope of work and geotechnical observation and special testing services for the project; and authorize the City Manager to execute the amendment.

PREPARED BY:

Abraham Chen
Abraham Chen
Associate Engineer

SUBMITTED BY:

Peter A. Weiss
Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
Scott Smith, City Engineer
Teri Ferro, Financial Services Director

ms
[Signature]
[Signature]
[Signature]

Attachments:

- Exhibit A PSA March 3, 2004
- Exhibit B Amendment 1
- Exhibit C Amendment 2
- Exhibit D Amendment 3
- Exhibit E Amendment 4
- Exhibit F Amendment.5

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 3rd day of March, 2004, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RICK ENGINEERING COMPANY, hereinafter designated as "CONSULTANT".

RECITALS

- A. CITY desires to obtain professional engineering services from an independent contractor for the above named project.
- B. CONSULTANT has submitted a proposal to provide engineering services for the CITY in accordance with the terms set forth in this Agreement.
- C. CITY desires to contract with CONSULTANT as an independent contractor and CONSULTANT desires to provide services to CITY as an independent contractor.
- D. CONSULTANT has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education and expertise.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**1.0 SCOPE OF WORK.** The project is more particularly described as follows:

- A. El Camino Real and Garrison Creek Detention Basins
The Garrison Creek Detention Basin plans will be unchanged, but will be reformatted into the overall plan set (i.e., sheet numbers, cross-referencing, reformatting title and detail sheets, etc.).
- B. Water Resources Engineering
 1. CONSULTANT will update the detention volumes and the HEC-1 detention analyses to reflect the finalized wall locations (anticipated to be constructed by NCTD) with the NCTD right-of-way, as well as the finalized wall locations proposed by the detention basin projects to determine the 10-, 50-, 100-, and 500-year discharges, detention volumes, and ponded water surface elevations for each of the detention basins. The proposed wall adjacent to the Superior Ready Mix property does not directly impact the detention volumes within the El Camino Real detention basin.

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2. CONSULTANT will update the HEC-2 analysis of Loma Alta Creek from approximately cross section 108 to cross-section 169 (included in the existing CLOMR) to reflect the construction of the NCTD Sprinter Rail Project as well as the construction of the detention facilities and the wall adjacent to the Superior Ready Mix property. The updated HEC-2 will be needed to finalize the required wall elevations and water surface elevations.

C. Design Surveys

CONSULTANT will conduct design surveys in the areas of the proposed detention basin walls. These surveys will validate the existing aerial topography so that footings for the proposed detention basin wall can be designed. Included in this scope will be one day of surveying for any required potholing and locating of existing utilities.

D. Final Engineering

1. CONSULTANT will prepare and process through the City of Oceanside, 1"=40' grading, wall and erosion control plans for the construction of the El Camino Real and Garrison Creek detention basins as one set of plans. These plans will include inlet/outlet works hydraulic design, storm drain relocation and grading design at the basin walls where required. The proposed grading as shown on the preliminary set of plans will be the basis for design.
2. Simon Wong Engineering will prepare the retaining wall plan and profiles for structural calculations for the proposed detention basin walls. The walls will be concrete and masonry block design. Culvert transition structural calculations and details will be prepared for both basins.
3. CONSULTANT will prepare and include traffic control plans for the wall construction and storm drain relocations in the plan set.
4. CONSULTANT will prepare project specifications and opinion of probable cost estimates. The Green Book will be the basis of the specifications. The City will prepare the bid documents incorporating the estimate into the document and adding the technical specifications provisions into the City's Special Provisions section.
5. CONSULTANT will prepare hydraulic and hydrologic calculations for inlet/outlet works, rip rap design, and weir openings based upon the available hydrology information.
6. SWPPPs and SWSAS
 - a. CONSULTANT will prepare SWPPP and SWSAS for the project along with a Notice of Intent (NOI) to utilize the general storm

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water discharge permit. These will be prepared in accordance with the National Water Quality Control Board System (NPDES) and the Regional Water Quality Control Board regulations.

- b. The SWSAS will identify sampling locations and requirements. This scope does not include collection and analysis of storm water samples.

E. Meetings and Coordination

1. The City of Oceanside processing is assumed to be 24 hours on a time-and-materials basis. All materials will be delivered to the City for disbursal to the appropriate plan checkers. Materials to be delivered will include one (1) reproducible plan set, one (1) set of specifications (hardcopy and on disk), and three (3) sets of any calculations.
2. CONSULTANT will attend team and coordination meetings with project consultants on an as-needed basis. The estimate for this task is assumed to be 24 hours on a time-and-materials basis.
3. CONSULTANT will attend project management and coordination meetings with project consultants on an as-needed basis. The estimate for this task is assumed to be 24 hours on a time-and-materials basis.

F. As-Built Preparation

CONSULTANT will prepare and process as-built drawings with the City of Oceanside. As the complexity of the as-built drawings has not been established, 40 hours are included on a time-and-materials basis.

G. Bid Support

CONSULTANT will provide bid support services. This will include addressing RFI's (Requests for Information) and general City support. This task is estimated to be 50 hours on a time-and-materials basis.

H. Construction Support

CONSULTANT will provide construction support services such as consultation services, review of construction shop drawings and review of contractor change orders. This task is estimated to be 50 hours on a time-and-materials basis.

- 1.1 PROFESSIONAL SERVICES PROVIDED BY CONSULTANT. The professional services to be performed by CONSULTANT shall consist of, but not be limited to, the following:

- 1.1.1 Work closely with the City Engineer in performing work in accordance with this Agreement in order to receive clarification as to the result which the CITY expects to be accomplished by CONSULTANT. The City Engineer, under the authority of the City

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Manager, shall be the CITY'S authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The City Engineer may delegate authority in connection with this Agreement to the City Engineer's designees. For the purposes of directing the CONSULTANT'S performance in accordance with this Agreement, the City Engineer delegates authority to Jeanette Peck, Senior Civil Engineer.

- 1.1.2 In compliance with Government Code Section 7550, the CONSULTANT shall include a separate section in the proposal prepared pursuant to this Agreement, which contains a list of all the subcontractors and dollar amounts of all contracts and subcontracts required for the preparation of work described in this Agreement.
- 1.1.3 Visit and carefully examine the location of the project as often as necessary to become acquainted with all conditions which are visible or could reasonably be discovered, and which might have an impact upon the construction of the project.
- 1.1.4 Design, prepare and submit to the City Engineer, plans and specifications for the construction of the project as described in the Scope of Work, and in the time and manner set forth in this Agreement.
- 1.1.5 Prepare and submit to the City Engineer, concurrently with the design plans, the following:
 - a. A written estimate of probable construction costs.
 - b. A written list of submittals, which the construction contractor will be required to provide during the construction phase of the project.
- 1.1.6 Upon completion of construction, prepare, approve and sign a set of As-Built record drawings.
- 1.1.7 Provide office and field assistance to the City during the bidding and construction periods upon request by City Engineer to include the services listed below:
 - a. Provide consultation and advice to the City during construction of the project.
 - b. Review and comment on detailed construction drawings, shop and erection drawings submitted by the contractor, subcontractors and suppliers for compliance with the construction contract documents.
 - c. Review and comment on laboratory, shop and mill test reports on materials and equipment.
 - d. Review and make recommendations on all construction contract change orders and requests for clarification from the contractor.

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- e. Prepare engineering cost estimates.
- f. Prepare design changes and clarifications to the plans and specifications.
- g. Prepare needed reports and notices.
- h. Provide periodic visits to the site to monitor construction.
- i. Attend meetings with the City Engineer or his designees.

1.2 SERVICES PROVIDED BY CITY. The CITY shall perform the following services:

- 1.2.1 Provide access to all public improvement plans and records and furnish one copy of drawings and reports requested.
- 1.2.2 Obtain all necessary permits from other regulatory agencies and other Departments. CONSULTANT shall participate in the completion of such forms but CITY will submit these and pay for any applicable fees.
- 1.2.3 Provide sample of title block for the plans and standard form Public Works Construction Contract Documents to be used with the General Provisions (Specifications).
- 1.2.4 Upon request, verify the location of existing CITY owned utilities.
- 1.2.5 Provide all legal advertising mailings and postings required.
- 1.2.6 Duplicate all final plans and specifications.
- 1.2.7 Provide all necessary surveying and testing required for design, including geotechnical engineering services if required during construction.
- 1.2.8 Provide overall project management.
- 1.2.9 Provide coordination of all inquiries from prospective bidders during the bidding period.

2.0 TIMING REQUIREMENTS

- 2.1 Time is of the essence in the performance of work under this Agreement and the following timing requirements shall be strictly adhered to unless otherwise modified in writing as set forth in Section 2.6. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by the CITY and the assessment of damages against the CONSULTANT for delays.
- 2.2 Preliminary Engineering (30% Stage). CONSULTANT shall prepare and deliver a reproducible of the 30% preliminary design plans to the City Engineer within 35 working days of the execution of this Agreement. No work shall be performed by

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CONSULTANT beyond the Preliminary Engineering stage until the City Engineer has given written approval of the preliminary design and authorization to perform Final Design.

- 2.3 Final Design (65% Stage). CONSULTANT shall prepare and deliver a reproducible of the 65% design plans and specifications, plats and legal descriptions, hydrology and hydraulic calculations, and landscape plans to the City Engineer within 50 working days of the approval of the preliminary engineering drawings. No work shall be performed by CONSULTANT beyond the 65% stage until the City Engineer has given authorization to perform the Final Design 100% stage.
- 2.4 Final Design (100% Stage). CONSULTANT shall prepare and deliver a reproducible of the 100% design plans and specifications to the City Engineer within 15 working days of the City Engineer's written authorization to perform this stage of work.
- 2.5 Final Design (Mylar Submittal). CONSULTANT shall prepare and deliver mylars of the 100% design plans and a reproducible copy of the specifications to the City Engineer within 5 working days of the City Engineer's written authorization to perform this stage of work.
- 2.6 As-Built Drawing Preparation. CONSULTANT shall prepare and deliver the final As-Built plans for record drawings to the City Engineer within 30 calendar days after the completion of the project and the City Engineer's written request.
- ⁷
2.7 CONSULTANT shall submit all requests for extensions of time for performance in writing to the City engineer no later than ten (10) calendar days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The City Engineer shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT'S control.
- ⁸
2.8 For all time periods not specifically set forth herein, the CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances, by either telephone, fax, hand delivery or mail.
- 3.0 DESIGN CRITERIA AND STANDARDS. All work shall be performed in accordance with applicable CITY, state and federal codes and criteria. In the performance of its professional services, CONSULTANT shall use the degree of care and skill ordinarily exercised by CONSULTANT under similar conditions.

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

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4.0 INDEPENDENT CONTRACTOR. CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Engineer. The CONSULTANT shall not be authorized to communicate directly with, nor in any way direct the actions of, any bidder or the construction contractor for this project without the prior written authorization by the City Engineer. CONSULTANT shall be 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.

5.0 CITY BUSINESS LICENSE. Prior to the commencement of any work under this agreement, the CONSULTANT shall obtain and present a copy of an Oceanside City Business License to the City Engineer.

6.0 WORKERS' COMPENSATION. Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will comply with such provisions and provide certification of such compliance as a part of these Award Documents. The certification shall be in accordance with Subsections 7.3 through 7.8 of this Agreement.

7.0 LIABILITY INSURANCE.

7.1 CONSULTANT shall, throughout the duration of this Agreement, maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including, but not limited to, premises and automobile.

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

Comprehensive General Liability Insurance
(bodily injury and property damage)

| | |
|--------------------------------------|---------------|
| Combined Single Limit Per Occurrence | \$ 1,000,000 |
| General Aggregate | \$ 2,000,000* |

Commercial General Liability Insurance
(bodily injury and property damage)

| | |
|------------------------------|--------------|
| General limit per occurrence | \$ 1,000,000 |
|------------------------------|--------------|

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| | |
|---------------------------------------|--------------|
| General limit project specific | \$ 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.

- 7.2.2 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.
- 7.3 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this Agreement. Insurance coverage provided to the CITY as an additional insured shall be primary insurance and other insurance maintained by the CITY, its officers, agents and employees shall be excess only and not contributing with insurance provided pursuant to this Section.
- 7.4 All insurance companies affording coverage to the CONSULTANT pursuant to this Agreement shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 7.5 All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 7.6 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 7.7 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.
- 7.8 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.

- 8.0 PROFESSIONAL ERRORS AND OMISSIONS INSURANCE. Throughout the duration of this agreement and four (4) years thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of five hundred thousand dollars (\$500,000).

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

- 9.0 CONSULTANT'S INDEMNIFICATION OF CITY. CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims or lawsuits for damages to persons or property arising out of the conduct, negligent acts, errors, omissions or wrongful acts of conduct of the CONSULTANT or its employees, agents, subcontractors or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, expert fees, attorneys' fees and liability assessed against or incurred by the CITY, its officers, agents or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT, at its own expense, shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents or employees resulting or arising from the tortuous acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

- 10.0 ERRORS AND OMISSIONS. In the event that the City Engineer determines that the CONSULTANT'S negligence, misconduct, errors or omissions in the performance of work under this Agreement has resulted in expense to CITY greater than would have resulted if there were no such negligence, errors or omissions in the plans or contract specifications, CONSULTANT shall reimburse CITY for the additional expenses incurred by the CITY, including engineering, construction and/or restoration expense. Nothing herein is intended to limit CITY'S rights under Sections 7, 8 or 9.

- 11.0 NO CONFLICT OF INTEREST. The CONSULTANT shall not be financially interested in any other CITY contract for this project. For the limited purposes of interpreting this section, the CONSULTANT shall be deemed a "City officer or employee", and this Section shall be interpreted in accordance with Government Code section 1090. In the event that the CONSULTANT becomes financially interested in any other CITY contract for this project, that other contract shall be void. The CONSULTANT shall indemnify and hold harmless the CITY, under Section 9 above, for any claims for damages resulting from the CONSULTANT'S violation of this Section.

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12.0 OWNERSHIP OF DOCUMENTS. All plans and specifications, including details, computations and other documents, prepared or provided by the CONSULTANT under this Agreement shall be the property of the CITY. The CITY agrees to hold the CONSULTANT free and harmless from any claim arising from any use, other than the purpose intended, of the plans and specifications and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computation and other documents, prepared or provided by the CONSULTANT. CONSULTANT may retain a copy of all material produced under this Agreement for the purpose of documenting their participation in this project.

13.0 COMPENSATION.

13.1 For work performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT in accordance with the schedule of billing rates set forth in Exhibit "A", attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without prior written approval of the City Engineer. CONSULTANT'S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of one hundred sixteen thousand one hundred dollars and no cents (\$116,100.00).

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Engineer. CONSULTANT shall obtain approval by the City Engineer prior to performing any work which results in incidental expenses to CITY as set forth in Section 13.2.2.

13.2 CONSULTANT shall maintain accounting records including the following information:

13.2.1 Names and titles of employees or agents, types of work performed and times and dates of all work performed in connection with this Agreement which is billed on an hourly basis.

13.2.2 All incidental expenses including reproductions, computer printing, postage, mileage and subsistence.

13.3 CONSULTANT'S accounting records shall be made available to the City Engineer for verification of billings, within a reasonable time of the City Engineer's request for inspection.

13.4 CONSULTANT shall submit monthly invoices to CITY. CITY shall make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the City engineer

13.4.1 Final payment shall be made to CONSULTANT upon CONSULTANT's preparation of As-Built plans for record drawings to the satisfaction of the City Engineer.

14.0 TERMINATION OF AGREEMENT. Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.

If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement, in accordance with Section 13. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including the date of termination.

- 15.0 ASSIGNMENT AND DELEGATION. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT'S duties be delegated, without the express written consent of the CITY. Any attempt to assign or delegate this Agreement without the express written consent of the CITY shall be void and of no force or effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

- 16.0 ENTIRE AGREEMENT. This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations or agreements.

- 17.0 INTERPRETATION OF THE AGREEMENT. The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

- 18.0 AGREEMENT MODIFICATION. This Agreement may not be modified orally or in any manner other than by an Agreement in writing, signed by the parties hereto.

- 19.0 DISPUTE RESOLUTION.

- a. Any controversy or claim arising out of or relating to this Agreement, or concerning the breach or interpretation thereof, shall be first submitted to mediation, the cost of which shall be borne equally by the parties.
- b. No suit shall be brought on this contract unless all statutory claims filing requirements have been met.

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

TO CITY:

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

TO CONSULTANT:

Rick Engineering Company
Mr. Tim Gabrielson
5620 Friars Road
San Diego, CA 92110-2596

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur:

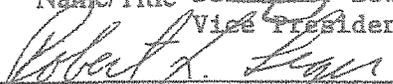
- a. Actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or
- b. Three (3) working days following the deposit in the United States mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party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

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

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

RICK ENGINEERING COMPANY

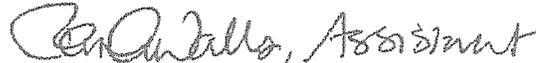
By: 
Name/Title Dennis D. Bowling
Vice President

By: 
Name/Title Robert L. Leger
Secretary

95-1859899
Employer ID No.

CITY OF OCEANSIDE

By: 
Steven R. Jepsen, City Manager

APPROVED AS TO FORM:

City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

**AMENDMENT TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 520.817451**

CITY OF OCEANSIDE

**AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

PROJECT: AMENDMENT TO THE LOMA ALTA CREEK DETENTION BASIN AT EL CAMINO REAL PROFESSIONAL SERVICES AGREEMENT – 520.817451

This AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT is made and entered into this 18th day of MAY, 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RICK ENGINEERING COMPANY, hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement (the "Agreement") whereby CONSULTANT was to provide engineering services for the proposed Loma Alta Creek Detention Basin Project at El Camino Real.

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

The Professional Services Agreement shall be amended as follows:

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

I. Geotechnical Investigation

1. Review published geologic maps, aerial photographs and other literature pertaining to the site to aid in evaluating geologic conditions that may be present.
2. Drill three small diameter borings to a depth of approximately 10 feet to examine and sample the prevailing soil conditions.
3. Perform laboratory tests on selected soil samples to evaluate in situ density, shear strength, compaction, grain size, permeability and expansion characteristics of the prevailing soils conditions encountered.

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ENGINEERING SERVICES FOR
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4. Prepare a written report presenting findings and conclusions and recommendations regarding the geotechnical aspects of designing and constructing the proposed walls. Recommended grading specifications, retaining wall criteria including earth pressures, hydrostatic pressures, uplift forces and flow characteristics, excavation characteristics and remedial grading measures will be included in the report.

5. Review and Sign Final Plans

B. SECTION 2, TIMING REQUIREMENT, IS HEREBY AMENDED BY ADDING THE FOLLOWING ADDITIONAL TIMING REQUIREMENTS FOR THE ADDITIONAL WORK:

2.8 CONSULTANT shall provide the following deliverables per the schedule outlined below:

- Written report presenting findings and conclusions and recommendations regarding the geotechnical aspects of designing and constructing the proposed walls as well as recommended grading specifications, retaining wall criteria including earth pressures, hydrostatic pressures, uplift forces and flow characteristics, excavation characteristics and remedial grading measures within 30 calendar days of signing Amendment #1.

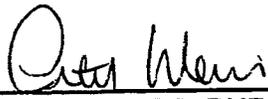
C. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING A LUMP SUM FIXED FEE AMOUNT NOT TO EXCEED \$10,000 FOR THE ADDITIONAL WORK FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$126,100.

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

**AMENDMENT TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 520.817451**

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

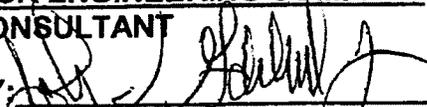
CITY OF OCEANSIDE

BY: 
PETER A. WEISS, PUBLIC WORKS DIRECTOR

APPROVED AS TO FORM:

BY: , DCA
CITY ATTORNEY

**RICK ENGINEERING COMPANY
CONSULTANT**

BY: 

NAME: John D. Goddard Jr.

TITLE: Associate Principal

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

**AMENDMENT TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 520.817451**

CITY OF OCEANSIDE

**AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT TO THE LOMA ALTA CREEK DETENTION BASIN AT EL
CAMINO REAL PROFESSIONAL SERVICES AGREEMENT –
520.817451**

This AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT is made and entered into this ____ day of _____, 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RICK ENGINEERING COMPANY, hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement (the "Agreement") whereby CONSULTANT was to provide engineering services for the proposed Loma Alta Creek Detention Basin Project at El Camino Real.

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

The Professional Services Agreement shall be amended as follows:

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

Amendment #2 expands the scope of the basic services under the contract to include the design of additional retaining walls at the Superior Ready Mix site, re-design of a box culvert due to an alternative to be used and re-design of a portion of the detention basin wall due to right-of-way restrictions and additional site conditions.

A detailed description of the Amendment, **Exhibit A**, is attached hereto and incorporated herein by this reference.

- B. SECTION 2, TIMING REQUIREMENT, IS HEREBY AMENDED BY ADDING THE FOLLOWING ADDITIONAL TIMING REQUIREMENTS FOR THE ADDITIONAL WORK:**

**AMENDMENT TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 520.817451**

2.8 CONSULTANT shall provide the following deliverables per the schedule outlined below:

- Final construction documents within 30 calendar days of receiving the geotechnical report from Geocon, Inc. which will present findings, conclusions and recommendations regarding design and construction of the proposed walls.

C. SECTION 13, **COMPENSATION**, IS HEREBY AMENDED BY ADDING A LUMP SUM FIXED FEE AMOUNT NOT TO EXCEED \$30,600 FOR THE ADDITIONAL WORK FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$156,700.

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

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

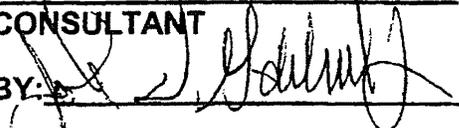
CITY OF OCEANSIDE

APPROVED AS TO FORM:

BY: _____
PETER A. WEISS, PUBLIC WORKS DIRECTOR

BY:  .DC.
CITY ATTORNEY

RICK ENGINEERING COMPANY
CONSULTANT

BY: 

NAME: John D. Goddard, Jr

TITLE: Associate Principal

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CITY OF OCEANSIDE

**AMENDMENT #3 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT #3 TO THE LOMA ALTA CREEK DETENTION BASIN AT
EL CAMINO REAL PROFESSIONAL SERVICES AGREEMENT –
520.817451**

This AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT, dated February 18, 2009 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RICK ENGINEERING COMPANY, hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement (the "Agreement") whereby CONSULTANT was to provide engineering services for the proposed Loma Alta Creek Detention Basin Project at El Camino Real.

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

The Professional Services Agreement shall be amended as follows:

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

Amendment #3 expands the scope of the basic services under the contract to include the additional survey, hydrology, summary letter to FEMA and design due to construction of Sprinter Rail.

A detailed description of the additional scope of work is attached hereto as Exhibit A and incorporated herein by this reference.

- B. SECTION 13, COMPENSATION,** is hereby amended by adding an amount not to exceed \$55,050 for the additional work, for a total contract amount not to exceed \$211,750.

- C.** All other terms, conditions, covenants and provisions of this agreement shall remain in full force and effect. In the event of any conflict between the terms of the original agreement and this amendment, the terms of this amendment shall control.

**AMENDMENT #3 TO
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 520.817451**

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

CITY OF OCEANSIDE

APPROVED AS TO FORM:

BY: *Peter Weiss*
PETER A. WEISS, CITY MANAGER

BY: *Richard L. Hamilton, 1987*
CITY ATTORNEY

**RICK ENGINEERING COMPANY
CONSULTANT**

BY: *Ball*

NAME: *Tim Gabrielson*

TITLE: *Associate*

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On 2-9-09 before me, James W Jessup Notary Public
Date Here Insert Name and Title of the Officer

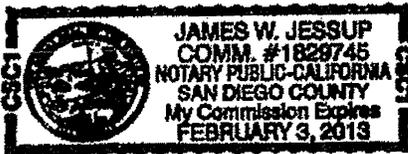
personally appeared TIM GABRIELSON
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s); or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____
Signature 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: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Exhibit "A"

Job No. 14604
Addendum No. 3 Revision #3
February 18, 2009
Page 1 of 2

Additional Scope of Work:

New Scope of Work includes an update hydraulic run and topography between Stations 267+00 and 290+00 and revise civil plans, structural design as a result of revised NCTD wall aerial topography.

1. Fly one foot contour interval topography at a scale of 1" = 40', covering an area of 60 acres. Limits of topography is from 50 feet westerly of El Camino Real on the west, to the centerline of Oceanside Blvd. to the north, to NCTD Sprinter Station 290+00 on the east, and to 50 feet south of the southerly track. (\$11,000.00)
2. Obtain supplemental field survey information for ground topography in the area of dense vegetation adjacent to the Superior Ready Mix Site. It is limited to two and one half days of survey time to supplement the cross sections collected from the aerial topography, at a cost of \$1,700.00 per day, including office support time. (\$4,000.00)
3. Update the hydrologic calculations for the El Camino Real Detention Basin to reflect the change in base topographic data obtained from the new topography above. The storage volume versus the elevation relationship within the basins at El Camino Real has changed due to the new topography. Revise the outlet structure in Wall C-2 to reflect the 1.5 foot elevation difference in the outlet flowline elevation, add a 24" diameter orifice in the wall, and update the differential head calculations needed to determine the appropriate wall opening geometry to maintain a 100-year detained ponded water surface elevation in the basin at or below the preliminary design elevation. Determine the maximum differential head anticipated between the upper and lower El Camino Real basins, for sizing riprap at the outlets of the upper basin. (\$2,500.00)
4. Update the HEC-RAS cross-section geometry between El Camino Real and the upstream side of the Superior Ready Mix property, to reflect the new topo above. Add two additional cross sections adjacent to the Superior Ready Mix Site to model the updated topography and survey data. Size Riprap Slope Protection to determine the limits of riprap needed at the openings within the C-2 wall. Prepare Preliminary HEC-RAS models to determine if excavation within the channel between the Sprinter Wall and the Superior Ready Mix site could eliminate the need for the Superior Wall in the Future. (\$2,800.00)
5. Attend one field meeting with the resource agencies to assist the City with the permit applications for the construction of the Superior Ready Mix Wall. Additional as-requested coordination with the City of Oceanside, Simon Wong, Recon, etc, related to the history of the Loma Alta Creek detention basin project, and the finalization of the plan documents. (\$1,200.00)

Job No. 14604
Addendum No. 3 Revision #3
February 18, 2009
Page 2 of 2

6. Prepare a letter report summarizing the results of the revised hydraulic calculations. (\$2,500.00)
7. Update plans to reflect the deletion of the Superior Ready Mix wall and the new water surface elevations and hydrologic information determined above. (\$9,500.00)
8. Meetings and Coordination related to changed conditions due to NCTD graded conditions. (\$3,500.00)
9. Miscellaneous services for project start-up and environmental coordination. (\$3,500.00)
10. Additional processing of revised plans through the City of Oceanside. (\$2,000.00)
11. Revisions to wall structural sections by Simon Wong Engineering to accommodate changes from above topographic survey and revisions to project hydraulic analysis, including revising the weir opening on wall C-2, adding a 24" opening to wall C-2, removing wall C-3 on the Superior Ready Mix property, revising the sheet pile specifications, and addressing potential changes in footing step elevations along both the C-1 and C-2 walls. (\$2,600.00)
12. Revise Hydraulic Design of the Loma Alta Creek Detention Basin at El Camino Real due to updated and revised NCTD offsite flows. In particular are the two 54" RCP piped confluence at the box culvert. (\$4,750.00)
13. Revise culvert geometry and coordinate with Simon Wong due to new hydraulic design. (\$1,300.00)
14. Structural redesign and plan revisions of the box culvert due to the revised culvert geometry (see attached scope of work for Simon Wong.) (\$3,900.00)

**AMENDMENT #4 TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 905745100520**

CITY OF OCEANSIDE

**AMENDMENT #4 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT #4 TO THE LOMA ALTA CREEK DETENTION BASIN AT
EL CAMINO REAL PROFESSIONAL SERVICES AGREEMENT –
905745100520**

This AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT is made and entered into this 24 day of February, 2008, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RICK ENGINEERING COMPANY, hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement (the "Agreement") whereby CONSULTANT was to provide engineering services for the proposed Loma Alta Creek Detention Basin Project at El Camino Real.

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

The Professional Services Agreement shall be amended as follows:

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

Amendment #4 expands the scope of the basic services under the contract to include the revised El Camino Real Detention Basin Plans – C-00012 to a lower the detention basin walls and outlet.

A detailed description of the Amendment, **Exhibit A**, is attached hereto and incorporated herein by this reference.

- B. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING A LUMP SUM FIXED FEE AMOUNT NOT TO EXCEED \$16,555 FOR THE ADDITIONAL WORK FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$228,305.**

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

**AMENDMENT #4 TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 905745100520**

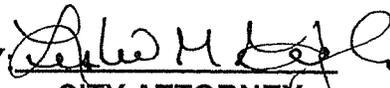
AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.

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

CITY OF OCEANSIDE

APPROVED AS TO FORM:

BY: _____
SCOTT O. SMITH, CITY ENGINEER

BY:  _____, DCA
CITY ATTORNEY

RICK ENGINEERING COMPANY
CONSULTANT

BY:  _____

NAME: Tim GABRIELSON

TITLE: ASSOCIATE

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

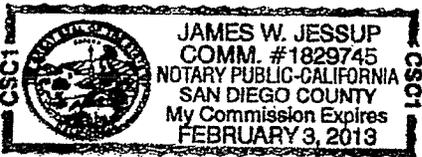
On 1-5-10 before me, James W Jessup Notary Public

personally appeared Tim Gabrielson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.
Signature [Handwritten Signature]
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

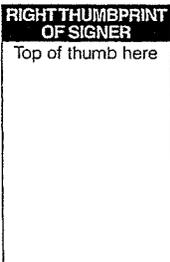
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

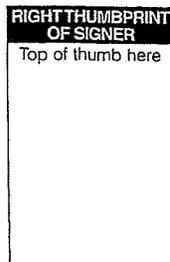
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



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: _____



Contract Addendum

Job No.: 14604
Addendum: No. 4
Date: January 5, 2010

Mr. Abe Chen
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

JOB DESCRIPTION: LOMA ALTA CREEK DETENTION BASIN – REVISE PLANS AND CALCULATIONS TO LOWER THE DETENTION BASIN WALL WEIRS

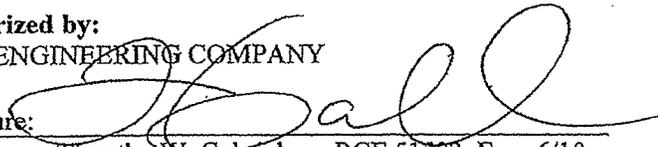
By signing below as indicated, Rick Engineering Company is authorized to expend an additional \$16,555.00 bringing the total amount authorized as of this date to \$228,305.00, to perform work in conjunction with our contract dated February 4, 2004.

Additional Scope of Work:

See attached Exhibit "A"

All other provisions of the original contract are to remain unchanged.

Authorized by:
RICK ENGINEERING COMPANY

Signature: 
Timothy W. Gabrielson, RCE 51503, Exp. 6/10

Date: 1/5/10

Title: Associate

Authorized by:
CITY OF OCEANSIDE

Signature: _____

Date: _____

Title: _____

Please return a signed copy to RICK ENGINEERING COMPANY

TWG:keK:\Jobfiles\14604\Contract\14604.Add4.doc

Exhibit "E"

Job No. 14604
Addendum No. 4
January 5, 2010

Additional Scope of Work:

- | | |
|---|----------------|
| I. Water Resources | \$3,800 |
| A. <u>Revised HEC-RAS</u> Update HEC-RAS modeling for the El Camino Real Detention Basin to reflect the lower spillway elevations within the basin. Hydraulic modeling will analyze the 100-year undetained flow rate, and additional lower flow rates to determine the velocities and shear forces anticipated at the spillway due to overtopping. This scope of work assumes up to 5 incremental discharge rates will be analyzed. | |
| B. <u>Rip Rap Design</u> Analyze shear forces and peak velocities anticipated at the mid basin wall and lower basin wall due to overtopping of the spillway, to determine the required limits and size of rock slope protection at the downstream face of the wall. | |
| C. <u>Summary Letter</u> Prepare a summary letter analyzing the results of the HEC-RAS and shear force calculations and providing final recommendations for the interim slope protection design. | |
| II. Rick Engineering Company – Revise Project Plans | \$3,900 |
| A. Revise and mylar draft revisions to the grading plans, rip rap and wall cross sections, additional grading required at the mid basin wall and erosion control plan revision. | |
| B. Coordinate construction change. | |
| C. Process construction change with the City. | |
| III. Simon Wong – Revise Project Plans and Calculations | \$7,355 |
| See attached Scope | |
| IV. Expenses | \$1,500 |
| Additional expenses such as deliveries and printing. | |



December 16, 2009

Rick Engineering Company
5620 Friars Road
San Diego, CA 92110-2596

Attention: Tim Gabrielson

**SUBJECT: Loma Alta Creek Detention Basin at El Camino Real
Addendum for Weir Elevation Revisions**

Dear Mr. Gabrielson:

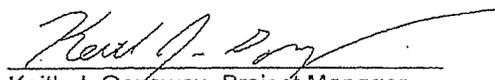
Per your email request dated December 7, 2009, Simon Wong Engineering presents this proposal for additional work required to modify the current plans for the Loma Alta Creek Detention Basin Walls at El Camino Real.

We will modify approximately nine sheets to accommodate revised weir elevations. At the C-1 wall, the weir elevation will be lowered from 91.4' to 83.5'. Fence anchor details will be modified for installation into concrete; fence sizes will not change. Intermittent pilasters would remain at their full height. At the C-2 wall, the weir elevation will be lowered from 94.2' to 86.3'. Notes and design criteria will be updated to reflect these changes. It is our understanding that the City desires in the future to build these spillways up to their original design height. As such, we will recommend a mechanism for splicing the wall reinforcement. This may be a simple assumption such as future drill and bond dowels, or it may be prudent to install rebar couplers at the interim weir elevation.

We propose to perform this additional work for a fixed fee of \$8,000. A breakdown of our fee is shown in Attachment A. This fee does not include any additional design work required to bring the weir elevations back up to their original design height in the future, such as plan revisions showing relocation of spillway gates or spillway infill walls. This fee also assumes that no calculations will be updated since factors of safety for wall stability will increase due to these modifications. We can complete the scoped work within three weeks of your notice to proceed.

Other terms of agreement per our original contract would remain in effect. If you have any questions regarding this proposed addendum, please feel free to call me at (858) 566-3113. Thank you for the opportunity to be of service to you.

Sincerely,


Keith J. Gazaway, Project Manager
Simon Wong Engineering

SWE No. 500-623

EXHIBIT "F"

CITY OF OCEANSIDE

**AMENDMENT #5 TO
PROFESSIONAL SERVICES AGREEMENT**

PROJECT: AMENDMENT TO THE LOMA ALTA CREEK DETENTION BASIN AT EL CAMINO REAL PROFESSIONAL SERVICES AGREEMENT - 905745100520

This AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT is made and entered into this _____ day of _____, 2010, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RICK ENGINEERING COMPANY, hereinafter designated as "CONSULTANT."

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement and amendments 1 through 4 thereto (the "Agreement") whereby CONSULTANT was to provide engineering services for the proposed Loma Alta Creek Detention Basin Project at El Camino Real.

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

The Professional Services Agreement shall be amended as follows:

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

Amendment #5 expands the scope of the basic services under the contract to include the additional geotechnical observation, special inspection, and special testing services for the construction of the Loma Alta Creek Detention Basins at El Camino Real.

A detailed description of the Amendment, **Exhibit A**, is attached hereto and incorporated herein by this reference.

- B. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING A LUMP SUM FIXED FEE AMOUNT NOT TO EXCEED \$98,808 FOR THE ADDITIONAL WORK FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$327,113.**

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

**AMENDMENT #5 TO:
ENGINEERING SERVICES FOR
LOMA ALTA CREEK DETENTION BASIN – 905745100520**

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

CITY OF OCEANSIDE

APPROVED AS TO FORM:

BY: _____
PETER A. WEISS, CITY MANAGER

BY:  _____, ASST.
CITY ATTORNEY

**RICK ENGINEERING COMPANY
CONSULTANT**

BY:  _____

NAME: TIM GABRIELSON

TITLE: Associate

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

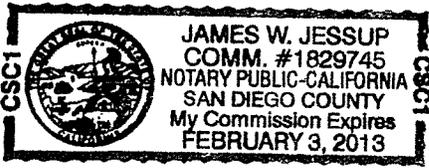
On 4-27-10 before me, James W Jessup Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Tim Gabrielson
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.



Place Notary Seal Above

Signature [Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

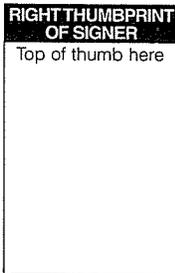
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

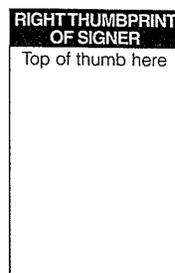
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



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: _____



Contract Addendum

| | |
|-----------|----------------|
| Job No.: | 14604 |
| Addendum: | No. 5 |
| Phase: | 232 |
| Date: | April 7, 2010 |
| Revised: | April 21, 2010 |

Mr. Abe Chen
 City of Oceanside
 300 North Coast Highway
 Oceanside, CA 92054

JOB DESCRIPTION: LOMA ALTA CREEK DETENTION BASIN (Project No. LG-10076)

By signing below as indicated, Rick Engineering Company is authorized to expend an additional \$98,808.00 bringing the total amount authorized as of this date to \$327,113.00, to perform work in conjunction with our contract dated February 4, 2004.

Additional Scope of Work:

1. Rick Engineering Company – subconsultant administration and coordination. (\$8,000 fixed fee)
2. Rick Engineering Company – additional construction support addressing RFI's and submittals. (\$7,000 time and materials)
3. GEOCON – see attached scope of work for geotechnical construction services (\$46,740 time and materials).
4. GEOCON – special inspection of rebar masonry and concrete placement for C-1 and C-2 wall and the box culvert extension, including \$6,200 for expenses (\$32,068 time and materials). (see attached e-mail)
5. GEOCON – construction inspection contingency for future construction related issues (\$5,000 time and materials).

The parties agree that this is an accommodation to allow the project to proceed timely; that GEOCON's taking no direction from Rick Engineering Company; that Rick Engineering Company is providing no supervision as to the services of GEOCON, and the City agrees with respect to this change order only, to indemnify and defend Rick Engineering Company for any and all claims, demands, causes of action or suits of any kind except for the negligence or willful misconduct of Rick Engineering Company.

All other provisions of the original contract are to remain unchanged.

Authorized by:
 RICK ENGINEERING COMPANY

Signature: 
 Timothy W. Gabrielson, RCE 51503, Exp. 6/10

Date: 4/21/2010

Title: Associate

Authorized by:
 CITY OF OCEANSIDE

Signature: 

Date: 4/26/2010

Title: ASSOCIATE ENGR.

Please return a signed copy to RICK ENGINEERING COMPANY
 TWG:keK:\Jobfiles\14604\Contract\14604.Add5.Rev.doc

Tim Gabrielson

From: Robert Mertz [mertz@geoconinc.com]
Sent: Wednesday, April 21, 2010 3:08 PM
To: amchen@ci.oceanside.ca.us; Tim Gabrielson
Cc: wang@geoconinc.com
Subject: Loma Alta Creek

I estimate that the cost for special inspection and testing for the C-1 wall including the box culvert and diversion walls, and C-2 wall including the Weir wall will be \$32,068. I understand that this is a prevailing wage job and used a rate of \$95/hour, if I am incorrect in this assumption, please let me know and I can make the appropriate change. The estimate is for 252 hours of inspection time and \$6,128 in laboratory testing cost.

Please contact me if you have any questions,

Bobby Mertz
Director of Field Services

Please visit our new website at <http://www.geoconinc.com>

GEOCON Incorporated

6960 Flanders Drive
San Diego, CA 92121-2974
Tel (858) 558-6900



GEOTECHNICAL - ENVIRONMENTAL - MATERIALS

San Diego Murrieta Burbank Bakersfield Sacramento Livermore Carson City Portland

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Proposal No. LG-10076
March 16, 2010
Revised April 14, 2010

Rick Engineering Company
5620 Friars Road
San Diego, California 92110-2596

Attention: Mr. Tim Gabrielson

Subject: LOMA ALTA CREEK DETENTION BASIN PROJECT
OCEANSIDE, CALIFORNIA
PROPOSAL FOR GEOTECHNICAL SERVICES DURING SITE DEVELOPMENT

Dear Mr. Gabrielson:

In accordance with your request, we are submitting this revised proposal to provide geotechnical services during the planned construction. The revision is based on planned construction schedule and current construction progress. Based on our understanding of the project, two walls, C-1 and C-2, will be constructed in a north-south direction extending from approximately the NCTD wall to the north.

The walls will be supported on conventional continuous footings with sheet pile walls installed upstream of the C-2 wall. Geocon Incorporated originally performed the geotechnical investigation for the project submitted in our report titled *Limited Geotechnical Investigation, Loma Alta Creek Detention Basin Retaining Walls, Oceanside, California* dated June 1, 2006, with subsequent addenda. We have based our proposal on the construction schedule provided by you assumed continuous observation of sheet pile installation and part time observation of footing excavation and backfill.

Since we have no control over the frequency of retesting of failing tests that may be required, the cost for retests is not included in this proposal. We recommended that, where significant retesting is necessary, the responsible contractor be backcharged for the related costs.

SCOPE OF SERVICES

Based upon the above information, we propose the following scope of services:

Sheet Pile Observation. Provide a staff level engineer and/or geologist to observe sheet pile installation for conformance with the project specifications. The construction schedule indicates 7 days of installation. Due to current delay of construction schedule, we estimate that approximately 100 man-hours of geologist or engineer time will be incurred sheet pile observation.

Foundation Observation. Provide a representative of Geocon Incorporated to observe foundation excavations for the proposed wall footings. Based on current construction progress, we estimate 20-hour visit for Wall C-2, two, 20-hour visits each for Wall C-1 Phase 1 and 2 for a total of 60 hours.

Collect Concrete Specimens. Collect concrete specimens in field during foundation construction and transport all specimens to Geocon laboratory for compressive strength testing. Twenty sets of concrete specimens are assumed to be collected with six cylinders per set, for a total of 120 cylinders. We estimate ten 4-hour visits for a total of 40 hours.

Compaction Testing. Provide one soil technician for the project on an "as-needed" basis during the placement and compaction of backfill soils. We estimate that 3 days of technician time will be required for backfill on Wall C-2, 2 days for backfill of the 54-inch-diameter RCP and 5 days for the of wall C-1. The technician will be equipped with a vehicle and sufficient field-testing equipment to provide in-place density test results in the field. Costs for the soil technician will be invoiced at \$85 per hour during a normal eight-hour day plus a \$25 surcharge for prevailing wage. Hours worked in excess of eight hours per day, or forty hours per week per technician, will be charged at time and one-half per overtime hour. All vehicles, field-testing equipment and mileage expenses are included in the hourly rate.

Geotechnical Consultation and Observation. Site visits by our engineer and/or geologist will be performed on as as-needed basis. We estimate that approximately 40 man-hours of geologist or engineer time will be incurred for site visits, meetings and miscellaneous consultation.

Laboratory Soil Testing. Perform laboratory soil tests related to the grading of the site (maximum dry density and optimum moisture content determination). The quantity of tests performed will depend upon the soil conditions encountered. However, we estimate that the total of such costs will be about \$1,000. The actual cost for laboratory tests will be invoiced in accordance with our current *Schedule of Fees/Terms and Conditions* (copy enclosed).

Laboratory Concrete Testing. Perform unconfined compressive strength testing on collected concrete cylinders to verify their strengths including 7 and 28 days, in accordance with ASTM C39, and design specifications. A total of 120 tests assumed, each at \$32.

Report Preparation and Submittal. Upon completion of the backfill operations, a final report will be prepared summarizing field and laboratory test results and the locations of the tests. Six copies of this final report will be submitted.

Contingence. Commenced prior to the presence of Geocon Incorporated, the current construction of Walls C-1 and C-2 are parts of the entire Loma Alta Creek Detention Basin project that will include the mitigation of the existing NCTD Sprinter Wall. We anticipate that additional consultations, meetings, coordination, and project plan review are likely during the courses of this project. We have allowed a contingency of additional 35 engineer's hours for this purpose. The actual cost for laboratory tests will be invoiced based on time spent.

PROPOSED FEE

Based upon the scope of services recommended above and assumptions made, we estimate that the cost for each item will be as follows:

| Item | Estimated Cost |
|---|------------------------|
| Testing and Observation | |
| Sheet Pile Observation | \$10,000 |
| Foundation Observation | 6,000 |
| Collect Concrete Specimens | 4,400 |
| Compaction Testing | 8,800 |
| Geotechnical Consultation and Observation | 5,200 |
| Laboratory Soil Testing | 1,000 |
| Laboratory Concrete Testing | 3,840 |
| Report Preparation and Submittal | 2,500 |
| Contingency | <u>5,000</u> |
| TOTAL ESTIMATED COST | <u>\$46,740</u> |

We propose to provide the services described herein for an estimated fee of \$46,740. Testing and observation performed outside the scope of work outlined in this proposal will be performed on a time-and-materials basis. Invoices will be submitted at four-week intervals and will be itemized in accordance with the enclosed *Schedule of Fees/Terms and Conditions* and will reflect only the actual time and costs incurred. It should be noted that the proposed scope of services does not include the evaluation or identification of the potential presence of hazardous or corrosive materials.

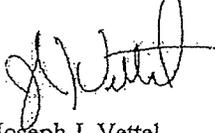
We have prepared this proposal with the understanding that this is a prevailing wage project.

Please carefully review the contents of this proposal, and the enclosed *Schedule of Fees and Terms for Geotechnical Engineering Services*. If they meet with your approval, execute both copies of the *Terms for Geotechnical Engineering Services* and return both copies to our office. We will then sign the documents and return one fully executed copy to you. Please note that it is necessary to indicate your project representative agent on the first sheet of *Terms for Geotechnical Engineering Services* and the address where all Client notices and communications should be sent. If you do not have an in-house project representative agent, please indicate a designated agent.

Should you have any questions regarding this proposal, or if we may be of further service, please contact the undersigned at your convenience.

Very truly yours,

GEOCON INCORPORATED



Joseph J. Vettel
GE 2401

JJV:dmc

Enclosures: TGES; SF/TC-2009

(2) Addressee