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DATE: June 27, 2012

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **AMENDMENT 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HELIX ENVIRONMENTAL PLANNING INCORPORATED FOR ENVIRONMENTAL SERVICES FOR MELROSE DRIVE EXTENSION PROJECT**

### **SYNOPSIS**

Staff recommends that the City Council approve Amendment 3 in the amount of \$26,100 to the professional services agreement with Helix Environmental Planning, Inc., of La Mesa for environmental and preliminary engineering services for the Melrose Drive Extension Project, adding to the scope of work additional services for a Parkland Conversion Mitigation Plan for the project; and authorization for the City Manager to execute the amendment.

### **BACKGROUND**

Melrose Drive is a major arterial street traversing from San Elijo Road, in the City of Carlsbad, to North Santa Fe Avenue, in the City of Oceanside; and from Spur Avenue to State Route 76, in the City of Oceanside. The Melrose Drive Extension Project will complete the missing link between North Santa Fe Drive and Spur Avenue and serve as a north-south arterial. Melrose Drive extension is identified in the adopted City of Oceanside Circulation Element and County General Plan Circulation Element.

- In 1991, the City and the County Department of Parks and Recreation began discussions on the extension.
- In 2002, the City initiated a contract with PDC for an Environmental Impact Report (EIR) on the extension.
- In 2005, the project was postponed due to funding priority.
- In 2007, the project was restarted, and the City Council directed staff to complete an Environmental Impact Report (EIR) for the project. Three alternatives were evaluated in the FEIR for the alignment of Melrose Drive through Guajome Regional Park and adjacent properties.

- 3
- In 2007, the City entered into a professional services agreement with Helix Environmental for environmental and preliminary engineering services for Melrose Drive Extension EIR.
  - In 2008, Amendment 1 was approved for \$5,000 for the additional public scoping meeting requisitioned by the Council.
  - In 2008, Amendment 2 was approved for \$241,669 for additional environmental and engineering service needed to complete the EIR.
  - On January 24, 2011, the Planning Commission denied certification of the FEIR. On May 25, 2011, City Council overturned Planning Commission's decision and adopted Resolution No. 11-R0416-1, which certified the FEIR and identified Alternative 'A' (the middle alignment) as the preferred alignment.

Following the certification of the FEIR, Preserve Calavera, a 501C3, filed a lawsuit against the City for a Writ of Mandate. The City and Preserve Calavera agreed on a settlement in July 2011. A condition of the settlement is that a Preliminary Parkland Conversion Mitigation Plan (PPCMP) with the County of San Diego Department of Parks and Recreation must be completed prior to the commencement of final engineering.

## **ANALYSIS**

The Melrose Drive Extension project will impact the County's Guajome Regional Park, which was purchased with Land and Water Conservation Funds (LWCF). The LWCF program provides funds to state and local governments to acquire land in forms of parks, forest and wildlife areas.

Any property acquired by the LWFC cannot be converted to other than public outdoor recreation uses without the approval of the National Park Service (NPS). The City of Oceanside through the County of San Diego and the California Department of Parks and Recreation, is starting the conversion process with the NPS by drafting a Preliminary Parkland Conversion Mitigation Plan (PPCMP). The PPCMP describes the size and the characteristics of the parkland impacted by the project and how the City will replace that parkland in kind.

Amendment 3 with Helix Environmental is for the additional work to coordinate with stakeholders of PPCMP and complete a draft of a PPCMP for the County's acceptance.

## **FISCAL IMPACT**

The Melrose Drive Extension project (90112220561) for FY12-13 budget has an available balance of \$2,390,000. The cost of Amendment 3 with Helix Environmental Planning is \$26,100 and total cost shall not exceed \$1,048,857. Therefore, there are sufficient funds available.

**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.

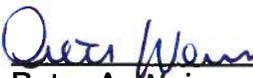
**RECOMMENDATION**

Staff recommends that the City Council approve Amendment 3 in the amount of \$26,100 to the professional services agreement with Helix Environmental Planning, Inc., of La Mesa for environmental and preliminary engineering services for the Melrose Drive Extension Project, adding to the scope of work additional services for a Parkland Conversion Mitigation Plan for the project; and authorization for the City Manager to execute the amendment.

PREPARED BY:

  
\_\_\_\_\_  
Abraham Chen  
Associate Engineer

SUBMITTED BY:

  
\_\_\_\_\_  
Peter A. Weiss  
City Manager

REVIEWED BY:

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

  
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Attachments:

- 1. Amendment 3 with Helix Environmental Planning, Inc.

**CITY OF OCEANSIDE**

**AMENDMENT NUMBER 3 TO  
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: ENVIRONMENTAL AND PRELIMINARY ENGINEERING SERVICES  
FOR THE MELROSE DRIVE EXTENSION PROJECT – 902779300212**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment"), dated June 20, 2012, for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Helix Environmental Planning Incorporated, hereinafter designated as "CONSULTANT."

**RECITALS**

WHEREAS, City and Consultant are the parties to that certain Professional Services Agreement dated the June 20, 2007, and amendments No.1 and No. 2, thereto, hereinafter referred to as the "Agreement", wherein Consultant agreed to provide certain services to the City as set forth therein;

**AMENDMENT**

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

**A. SECTION 1, SCOPE OF WORK.** The project is more particularly described as follows (detailed Scope of Work attached as Exhibit A).

**B. SECTION 7, COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Amendment No. 3, is hereby amended by adding a lump sum amount not to exceed \$26,100 for additional work for a total contract amount not to exceed \$1,048,857.

All other terms, conditions, covenants and provisions of the 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.

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 that result in incidental expenses to CITY.

Except as expressly set forth in this Amendment, the Agreement shall remain in full force and effect and is hereby ratified and reaffirmed.

**SIGNATURES.** The individuals executing this 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 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**  
**CITY**

**APPROVED AS TO FORM**

BY: \_\_\_\_\_

BY: *Barbara Hamilton, ASST.*

**PETER WEISS**  
**TITLE: CITY MANAGER**

**CITY ATTORNEY**

**HELIX ENVIRONMENTAL  
PLANNING INCORPORATED**

BY: *[Signature]*  
Michael Schwerin, Chief Executive Officer

BY: *Tamara Ching*  
Tamara Ching, Vice President, Planning Division

33-0493636  
Employer ID No.

**NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.**

**EXHIBIT A**

A detailed description of additional work.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of San Diego

On 5-1-12 before me, Kristin Olszak, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Michael Schwenn  
Name(s) of Signer(s)  
Tamara S. Ching

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: Amendment No. 3 to Professional Services Agreement

Document Date: \_\_\_\_\_ Number of Pages: 2

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: _____ <input type="checkbox"/> Corporate Officer — Title(s): _____ <input type="checkbox"/> Individual <input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General <input type="checkbox"/> Attorney in Fact <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator <input type="checkbox"/> Other: _____ Signer Is Representing: _____	<p style="text-align: center; font-weight: bold; font-size: small;">RIGHT THUMBPRINT OF SIGNER</p> <p style="text-align: center; font-size: x-small;">Top of thumb here</p>	Signer's Name: _____ <input type="checkbox"/> Corporate Officer — Title(s): _____ <input type="checkbox"/> Individual <input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General <input type="checkbox"/> Attorney in Fact <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator <input type="checkbox"/> Other: _____ Signer Is Representing: _____	<p style="text-align: center; font-weight: bold; font-size: small;">RIGHT THUMBPRINT OF SIGNER</p> <p style="text-align: center; font-size: x-small;">Top of thumb here</p>
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## **EXHIBIT A. SCOPE AND COST OF WORK**

### **Scope of Work**

In preparing the Preliminary Parkland Conversion Mitigation Plan (PPCMP), HELIX will accomplish the following tasks.

#### ***Task 1: Characterize Impacted Parkland***

HELIX will describe the amount parkland needed to accommodate the construction of Melrose Drive. The location and acreage of this land will be based on the encroachment estimates contained in the EIR for Alignment A of Melrose Drive. The encroachment areas will be quantified and illustrated on an aerial photograph. HELIX will characterize the present condition of the property. A description of the current and planned recreational use associated with the affected parkland will be prepared. This description will guide the process of determining that the land proposed to be converted to parkland has comparable recreation value to the parkland to be converted to non-park use.

#### ***Task 2: Identify Potential Parkland***

Based on the results of Task 1, HELIX will work with the City of Oceanside (City) and County Department of Parks and Recreation (DPR) to identify land to be converted to parkland to compensate for the parkland encroachment identified in Task 1. As with the land to be converted to roadway use, the land proposed to be converted to parkland will be characterized in terms of current use and condition.

Once the location of potential parkland has been agreed upon, HELIX will work with the City and County DPR to define the actions to be taken on the land to be converted to parkland to assure that the land would adequately compensate for the recreation function of the existing parkland to be converted to roadway. It is anticipated that these actions may include removal of existing structures, re-contouring the land to create a more natural terrain and/or revegetation with native plants. These actions will be described in general terms. However, detailed demolition, grading or planting plans will not be prepared.

It is anticipated that this task will involve one meeting with City staff to agree upon the land to be offered to compensate for parkland encroachment and up to three meetings with County DPR and City staff to discuss the City's proposal. One of the County/City meetings will consist of a field visit to inspect the property being offered as compensation.

#### ***Task 3: Prepare Draft PPCMP***

Based on the results of Tasks 1 and 2, HELIX will prepare the PPCMP letter. The letter will include the following elements:

### Introduction and Background

This section will contain a discussion of the actions which precipitated the need for the letter. The background discussion will document the fact that Land and Water Conservation Fund (LWCF) Act funds were used in the formation of Guajome Regional Park, and discuss the general requirements of Section 6(f)(3) of the LWCF Act. It will also discuss the relationship of the letter to the terms and conditions of the Settlement Agreement. Lastly, it will contain a description of the Melrose Drive improvements.

### Discussion of the Parkland to be Converted to Roadway

This section will identify the location and acreage of the land proposed to be converted from parkland to roadway, based on Alignment A from the EIR. The location of the land will be depicted on an aerial photograph which will also illustrate the park boundaries and footprint of the proposed Melrose Drive improvements.

This section will also discuss the current condition of the parkland that would be converted to roadway. Any current recreational activities occurring on the property would be described along with a discussion of any recreational uses planned for the land in the future. Native vegetation types occurring on the property will be discussed based on aerial photographs, but will not be mapped or quantified.

### Discussion of the Non-parkland to be Converted to Parkland

This section will identify the location and acreage of the land proposed to be converted to parkland. The location of the land will be depicted on the aerial photograph prepared to illustrate the parkland to be converted, to facilitate comparison.

This section will also discuss the current condition of the land to be converted to parkland. Any current use of the land will be described. Native vegetation types occurring on the property will be discussed based on aerial photographs, but will not be mapped or quantified.

### Conclusions

This section will consist of an evaluation of the parkland to be converted to roadway and the non-parkland to be converted to parkland. The discussion will document the conclusion that the non-parkland proposed to be converted to parkland will adequately compensate for the parkland to be converted to roadway. In addition to demonstrating comparable size, the discussion will document that the land to be converted to parkland has comparable recreation value. The recreational value of the land will include consideration of the improvements proposed to occur prior to transfer of the land to the park, including revegetation and recontouring. The discussion will not include any comparison of the conversion land based upon real estate value.

As indicated earlier, the PPCMP will be structured to provide basic information that will ultimately be required to be included in the Conversion Plan required by Section 6(f)(3) of the LWCF Act. However, it is not intended to serve as the Conversion Plan.

It is anticipated that this task will involve one meeting with City staff before the PPCMP is finalized. This scope assumes one screencheck version of the Draft PPCMP before it is finalized for submittal to the County DPR and Preserve Calavera. Three copies of the 1<sup>st</sup> screencheck PPCMP along with an electronic version will be submitted to the City for review. Up to ten printed copies along with a digital version of the final Draft PPCMP will be submitted to the City for distribution to County DPR and Preserve Calavera.

***Task 4: Prepare Final PPCMP***

Based on comments from the County DPR and Preserve Calavera on the Draft PPCMP, HELIX will produce a Final PPCMP for County DPR approval in accordance with Condition 3b of the Settlement Agreement.

It is anticipated that this task will involve a total of two meetings with County DPR and/or Preserve Calavera before the PPCMP is finalized. This scope assumes one screencheck version of the Draft PPCMP before it is finalized. Up to ten copies of the 1<sup>st</sup> screencheck of the Final PPCMP along with a digital version will be submitted to City for distribution to the County DPR and Preserve Calavera. Up to ten copies of the Final PPCMP and a digital version will be provided to the City.

***Task 5: State DPR and NPS Consultation Support***

HELIX will assist with, and participate in, preliminary requests for approval from State DPR and NPS. It is assumed that County DPR will take the lead in initiating and facilitating the consultation process. Our involvement is assumed to consist of up to eight hours. If additional assistance is required, an amendment to our contract would be required.

***Task 6: Project Management***

This task includes time spent by the Project Manager in general coordination as well as coordination associated with budget and schedule management. Management time is estimated at two hours a month for four months.

**Cost of Work**

The services described in the Scope of Work will be completed on a time and materials basis for a sum not to exceed \$26,100. A breakdown of this cost by task is illustrated in Table 1.

<b>Table 1. COST OF WORK</b>		
<b>Task Number</b>	<b>Description</b>	<b>Cost (\$)</b>
1	Characterize Impacted Parkland	2,770
2	Determine Potential Parkland	6,070
3	Prepare Draft PPCMP	8,100
4	Prepare Final PPCMP	6,280
5	Consult with State DPR and NPS	1,440
6	Project Management	1,440
<b>Total Cost</b>		<b>\$26,100</b>

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

**PROJECT: AMENDMENT NUMBER 2 TO PROFESSIONAL SERVICES AGREEMENT FOR ENVIRONMENTAL AND PRELIMINARY ENGINEERING SERVICES FOR THE MELROSE DRIVE EXTENSION PROJECT – 212.757793**

This AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT, dated December 10, 2008, for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and HELIX Environmental Planning Incorporated, hereinafter designated as "CONSULTANT."

**RECITALS**

WHEREAS CITY and CONSULTANT entered into a professional services agreement, dated June 20, 2007, and Amendment Number 1 to said agreement dated December 10, 2008, to provide environmental and preliminary engineering services for the Melrose Drive Extension Project.

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

The Professional Services Agreement shall be further amended to read as follows:

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

A detailed description of the additional scope of services is contained in the Contract Amendment No. 2 attached as Exhibit "A" incorporated herein by reference.

- B. SECTION ~~13.A~~<sup>7</sup> **COMPENSATION**, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$241,669 FOR THE ADDITIONAL WORK SET FORTH IN SECTION A, ABOVE.

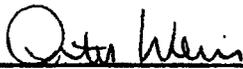
The total amount of compensation for the work required by the Professional Services Agreement, including this amendment, shall not exceed \$1,022,757.

- 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, AS AMENDED, AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.

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**  
**CITY**

**APPROVED AS TO FORM**

BY:  12/22/08

**PETER WEISS**  
**TITLE: CITY MANAGER**

BY:  ASSI.

**CITY ATTORNEY**

**HELIX ENVIRONMENTAL  
PLANNING INCORPORATED**

BY:   
Michael Schwerin/Chief Executive Officer

BY:   
Tom Huffman/Chief Operating Officer

33-0493636  
Employer ID No.

**NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.**

**EXHIBIT A**

A detailed description of additional work.



EXHIBIT "A"

7578 El Cajon Boulevard, Suite 200

La Mesa, CA 91941

fax (619) 462-0552

phone (619) 462-1515

Inland Empire Office

phone (951) 328-1700

November 25, 2008

COO-01

Mr. Abraham Chen  
City of Oceanside  
Department of Public Works  
300 North Coast Highway  
Oceanside, CA 92054

Subject: Revised Contract Amendment No. 2 to Provide Environmental and Engineering Consulting Services for the Melrose Drive Extension Project

Dear Mr. Chen:

HELIX Environmental Planning, Inc. (HELIX) is pleased to submit this revised contract amendment request (Amendment No. 2) to the City of Oceanside (City) to provide additional environmental and engineering consulting services for the Melrose Drive Extension Project (Project).

HELIX is under contract with the City to provide environmental and preliminary engineering services for the Project, pursuant to our Professional Services Agreement dated June 20, 2007 (Agreement). This Amendment addresses additional environmental and engineering services related to preparation of the Melrose Drive Extension EIR. These services, several of which are already completed, are/were provided at the City of Oceanside's (City) request.

#### SCOPE OF SERVICES

A scope of additional services for Amendment No. 2 is presented in Exhibit A. They are required as a result of factors that have occurred in the course of completing the document that were not anticipated in our initial scope and cost of services for preparation of the EIR, as defined in our Agreement.

#### COST ESTIMATE AND PAYMENT PROCEDURES

To account for these out-of-scope tasks, HELIX is requesting an additional \$241,669 to cover time and materials expended or to be expended for this effort, which brings our currently authorized Agreement amount from \$781,088 to \$1,022,757. A breakdown of these costs by task is summarized below:

Agriculture (HELIX)	\$ 8,400
Biological Resources (HELIX)	6,200
Noise (HELIX)	1,000
Equestrian Trail (HELIX)	11,600
Traffic (LLG)	34,000
Cultural Resources (ASM)	7,913
Hazardous Materials (GEOCON)	4,850
Engineering Design (PDC)	85,900
Cumulative Projects (HELIX)	3,200



Amendment to Mr. Chen  
November 25, 2008

Page 2 of 2

Project Management (HELIX)	65,340
Subconsultant Mark Up (10%)	<u>13,266</u>
TOTAL	\$241,669

Invoicing and payment procedures shall continue in accordance with the terms of our Agreement.

#### EXECUTION OF AGREEMENT

This quote is good for 30 days from the date of this letter. This Amendment will become a contract upon HELIX's receipt of this original, including any Exhibits, signed by an authorized City representative.

We look forward to continuing to work with you on this project. If you have any questions, please call Seán Cárdenas at (619) 462-1515.

Sincerely,

A handwritten signature in black ink that reads "Tamara S. Ching". The signature is fluid and cursive, written over a white background.

Tamara S. Ching  
Vice President, Planning Division

Attachments: Exhibit A

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I hereby authorize HELIX to begin work in accordance with this Amendment.

CITY OF OCEANSIDE

Signed by: \_\_\_\_\_ Printed: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

## REVISED EXHIBIT 'A' – ADDITIONAL SERVICES

### AMENDMENT NO. 2 ENVIRONMENTAL AND ENGINEERING SERVICES MELROSE DRIVE EXTENSION EIR CITY OF OCEANSIDE, CALIFORNIA

This Amendment covers additional services related to the preparation of the Melrose Drive Extension EIR. These services, several of which are already completed, are provided at the City of Oceanside's (City) request. They are required as a result of factors that have occurred in the course of completing the document that were not anticipated in our initial scope and cost of services for preparation of the EIR as defined in our original contract with the City dated June 20, 2007.

These factors are associated with the expansion of the study area for agricultural resources, biological resources, traffic analysis, cultural resources, and right of way (ROW) acquisition; restart of the noise study; inclusion of a geophysical survey, pesticide analysis and sediment analysis; out of scope engineering design; project management; and reimbursable expenses. The additional services and the factors responsible for them are described below.

#### HELIX ENVIRONMENTAL PLANNING

1. Cumulative Projects. In addition, to the more than 40 cumulative projects identified in the County of San Diego (County), cumulative projects in the City and City of Vista must also be researched. The original 40 hours budgeted to research cumulative projects and assess identified impacts and mitigation is not adequate to cover this task. Therefore, HELIX requests an additional 40 hours of research for an environmental planner.

Cost: \$3,200

2. Project Support Services. HELIX is providing technical study and CEQA process management during preparation of the EIR, including consultation with City staff (telephone and email); coordination with City and County staff regarding EIR and technical study schedule and content; coordination of HELIX staff (technical, environmental, administrative, and graphics/GIS staff); coordination of consultant team regarding technical study schedule and content, including completion of project correspondence related to the technical studies; and preparation for meetings, agendas and meeting minutes. In addition, quality assurance review of the Draft and Final EIR will be conducted by the senior project manager prior to submittal of the documents to the City. The original contract anticipated 80 hours for this task (approximately 8 hours a month for 10 months). In the first six months of the project, ending December 31, 2007, performance of this task approximated 16 hours a month. As a consequence, the budget for project management was exhausted. Furthermore, the original project scope (see 3.2.15 Recreation) anticipated that Guajome Regional Park would be addressed through a recreation study, largely prepared by ASM. The addition of the requested project management tasks of assisting with the park land conversion process, preparing minutes of weekly teleconference meetings, and providing monthly status reports has

increased project management to approximately 22 hours per month. Based on the current project schedule, the project is expected to extend through June 2009. This will entail an additional 18 months at approximately 22 hours per month, allocated as follows:

- Consultation with City staff (40 hours).  
Cost: \$6,600
  - Coordination with City and County staff (60 hours).  
Cost: \$9,900
  - Coordination of HELIX staff and consultant team (60 hours).  
Cost: \$9,900
  - Preparation of agendas and minutes for meetings, including weekly teleconference with City (72 hours).  
Cost: \$11,880
  - Review monthly invoices and prepare status reports (40 hours).  
Cost: \$6,600
  - Assist City with park land conversion process (44 hours).  
Cost: \$7,260
  - Quality assurance review of Draft and Final EIRs (80 hours).  
Cost: \$13,200
3. Agricultural Study. The agricultural study area increased substantially, due to the County's septic system setback requirements from cut slopes. This required additional effort for HELIX related to on-site land use and resource mapping, identification of agricultural resources and potential use, GIS analysis, and associated evaluation of impacts/mitigation to meet County standards. In addition, the cumulative study area required by the County is significantly larger than anticipated. County staff required the inclusion of substantial agricultural areas located north of the San Luis Rey River, northeast of Camino Del Rey and east of Gopher Canyon, which resulted in additional field time for mapping/reconnaissance, as well as additional time for GIS mapping, cumulative project research and related assessment of potential impacts/mitigation.  
Cost: \$8,400
4. Biological Survey. In a letter dated January 4, 2008, the U.S Fish and Wildlife Service recommended that the biological study area be increased to the northwest to include the riparian area in Guajome Regional Park between Old Colony and Glacier Roads, and extended along North Santa Fe Avenue to the east, to the edge of the wooded area. This entailed additional vegetation mapping by HELIX.  
Cost: \$6,200

5. Noise Study. Due to the continued delay in the availability of the traffic model and subsequent completion of the traffic study, the noise study was placed on hold. Restarting the noise study will require additional project review and cost, as a result of changes in staffing.

Cost: \$1,000

6. Equestrian Trail Concept Plan. At the City's request, HELIX will develop an Equestrian Trail Connection Concept Plan for Guajome Regional Park. Development of the Concept Plan will include collecting data on existing and proposed equestrian facilities in the area, developing up to three alternatives for connecting existing trails on both sides of North Santa Fe Drive, coordinating evaluation of the alternatives with the City and County, and preparing a final Equestrian Trail Connection Concept Plan.

Cost: \$11,600

7. Subconsultant Mark Up. HELIX will charge a 10 percent mark up on the subconsultants identified below.

Cost: \$13,266

#### LINSCOTT, LAW & GREENSPAN ENGINEERS (LLG)

Traffic Study. At the County's suggestion, LLG has added six (6) intersections and five (5) road segments to the traffic analysis to ensure a more comprehensive traffic study. In addition, in emails dated June 23 and July 7, 2008, the City requested the inclusion of two additional alternative scenarios.

1. Expanded Study Area.

- Conduct traffic counts at six (6) new intersections and five (5) new segments, as requested by the County.
- Analyze existing conditions at new intersections and segments.
- Develop future traffic volumes at new study area locations.
- Conduct long-term analysis and identify mitigation, if appropriate, at new study area locations.
- Review cumulative project traffic.
- Incorporate above in the traffic report.

Cost: \$15,200

2. Scenario 3 (2030 Without Project and Without Northerly Extension to North River Road).

- Conduct traffic counts at two (2) new intersections and three (3) segments.
- Analyze existing conditions at new study area locations.
- Develop future traffic volumes at new study area locations.

- Conduct long-term analysis and identify mitigation, if appropriate, at new study area locations.
- Incorporate above in traffic report.

Cost: \$6,500

3. Scenario 4 (2030 With Project and Without Northerly Extension to North River Road).

- Develop future traffic volumes at new study area locations.
- Conduct long-term analysis and identify mitigation, if appropriate, at new study area locations.
- Incorporate above in the traffic report.

Cost: \$4,800

4. Obtain Additional Model Runs for Three Scenarios from SANDAG.

- **No extension** of Melrose Drive between North Santa Fe Avenue and Spur Avenue and **with extension** of Melrose Drive from SR-76 to North River Road.
- **No extension** of Melrose Drive between North Santa Fe Avenue and Spur Avenue and **no extension** of Melrose Drive from SR-76 to North River Road.
- **With extension** of Melrose Drive between North Santa Fe Avenue and Spur Avenue and **no extension** of Melrose Drive from SR-76 to North River Road.

Cost: \$3,900

5. Manually Modify Traffic Volumes due to Removal of SR 76/Jeffries Ranch Road Intersection

- Alternative A
- Alternative B
- Alternative C
- Alternative D

Cost: \$3,600

**ASM AFFILIATES (ASM)**

Cultural Resources Study. ASM conducted a cultural resources survey of the original project area in 2002 and produced a draft cultural resources report, which was expanded in March 2008. No archaeological resources were identified. Due to the County's septic system setback requirements from cut slopes, the study area was subsequently expanded to include areas not covered in the original survey. ASM will conduct an archaeological survey and building evaluation of the additional study area, prepare Department of Parks and Recreation (DPR) 523 forms on buildings and structures that are over 45 years of age, and update the cultural resources report. The updated technical report will include a description of the project's natural and cultural setting, study methods, survey results,

potential impacts, mitigation recommendations, and DPR 523 forms and evaluations. It is assumed that access will not be possible to privately-owned parcels, so additional survey and evaluation will be based on visibility from the public right-of-way.

Cost: \$7,913

## GEOCON CONSULTANTS

GEOCON has provided both environmental and geotechnical reconnaissance services for the project in the form of a Geotechnical Site Assessment and Phase I Environmental Site Assessment (ESA). During the course of the Phase I ESA, former agricultural land uses were identified in the project study area. In addition, the Sediment Transport Analysis, identified below under Project Design Consultants' scope of work, requires additional soil samples and analysis.

1. Soil Sampling and Analysis. Historically a substantial portion of the project site has been used for agriculture. GEOCON's 2003 Phase I Environmental Site Assessment recommended obtaining representative soil samples to evaluate soils within the proposed alignment for elevated levels of organochlorine pesticides. This is necessary in order to determine the appropriate treatment of soils encountered during project construction. GEOCON will excavate approximately ten (10) shallow soil borings and obtain approximately 20 soil samples for pesticides analysis at 6 inches and 2.5 feet below the ground surface. The analysis will be conducted in two phases, with the 6-inch samples analyzed and 2.5-foot samples held. If concentrations of pesticides are detected in the 6-inch samples, the corresponding 2.5-foot sample will be analyzed. Up to 20 samples will be analyzed for pesticides using USEPA Method 8081. A summary report of findings detailing the results of the pesticide analysis will be prepared.

An additional three (3) soil samples will be obtained from Guajome Creek and sieve analysis will be performed for the Sediment Transport Analysis. Samples will be taken from the upstream and downstream project limits, as well as at the Melrose Drive/North Santa Fe Avenue intersection, as identified by PDC.

Cost: \$4,850

## PROJECT DESIGN CONSULTANTS (PDC)

The original contract did not include preliminary bridge design, noise barriers, additional cross-sections, drainage facilities, septic sewer research, sediment transport analysis, bridge feasibility study, and associated project management. The sediment transport study will require PDC to survey additional topographic sections to a higher accuracy than is available with the aerial topography. Chang Consultants will be working with PDC to analyze the sediment transport mechanics and the results will be incorporated into the overall drainage report from PDC. GEOCON will provide three soil sample tests to facilitate the study (see above). The bridge investigation will not focus on aesthetics or possible bridge types, but will focus on the footprint of impact to each roadway and provide an estimate of probable construction costs.

1. Preliminary Bridge Plans. The original contract scope of work did not include fees for preparation of preliminary bridge plans, and a bridge consultant was not available to provide

such service. Consequently, to complete the 30% Design plans, PDC prepared the preliminary bridge designs for each of three alternative alignments, which included preparation of plan, profile and typical section, and performed all required grading for the abutments. This work was necessary to determine vertical and horizontal clearances required under the proposed bridge for Guajome Lake Road vertical alignment modifications, roadway design and drainage considerations (Guajome Lake Road roadway, 10-foot-wide equestrian trail and Spring Creek drainage) for each alternative.

Cost: \$12,000

2. Noise Barrier. PDC was asked to include 10-foot high noise barriers with 3:1 slopes along the proposed roadway within the County's jurisdiction, resulting in modifications to grading, drainage ditches and revision to the APE map for each of the alternative alignments.

Cost: \$5,400

3. Typical Sections. Item 1.3.4 Preliminary Design (30% Level) of the original contract scope of work included preparation of two typical sections per alignment. The criteria defined in this section, however, did not take into account the roadway bridge and improvements to all crossing roadways and access roads. In order to properly represent the cross sectional areas of all the proposed improvements, it was necessary for PDC to prepare a minimum of eight cross sections per alternative in order to take into account the roadway bridge and improvements to all crossing roadways and access roads.

Cost: \$4,000

4. Drainage Facilities (Drafting). Item 1.2.8 Roadway Drainage Improvement Design of the original contract scope of work did not include the cost of inclusion of the drainage facilities on the 30% plans. In order to provide an accurate APE map and properly relate the drainage design on the plans, it was also necessary for PDC to include the entire drainage system, including inlets, pipes, culverts, outlet structures, and drainage ditches, and to draft them onto the plans.

Cost: \$9,300

5. Septic Sewer Research. In addition, the original scope did not include research, review and documentation of existing septic sewer systems along the proposed roadway. Roadway design required PDC to perform additional research and spend additional time to determine the potential impact of proposed cut slopes on surrounding properties. As a result of the additional research, several properties with septic systems were discovered that would be affected by the roadway design. Additional research of County guidelines and requirements was necessary to confirm that cut slopes in these cases would render the septic systems void, requiring construction of an off-site sewer as part of this project to service these homes or additional right-of-way acquisition (see Wiggans & Willett below).

Cost: \$1,800

6. Additional Project Management. The extra work described above required the PDC project manager to include extra time and effort in management, coordination, QA/QC review, preparation and process of quantity calculations, and cost estimating.

Cost: \$1,500

7. Miscellaneous Plan Improvements: This service includes miscellaneous improvements that were not accounted for in the original contract. These improvements may/will be reflected on the plan set should it be determined that they impact the APE. Possible improvements include adding a sedimentation basin (w/ plan and profile), additional water quality devices and bioswales. The magnitude and need for these improvements will be quantified during the sediment transport study. Additional improvements that will be required include horizontal geometry, profiling and sectioning of a wildlife corridor and equestrian trail. The scale of these improvements will be determined through the bridge feasibility study.

Cost: \$5,000

8. Sediment Transport Analysis. In a pre-application meeting on May 13, 2008, the U.S. Army Corps of Engineers said that a sediment transport analysis would be required for permitting. A sediment transport analysis will be prepared by PDC that will include the following specific tasks and analytic approach:

- Perform 100-year and flood series FLUVIAL-12 analyses to determine the historic, existing and proposed condition sediment transport trends to assess long-term, rather than single-event sediment transport trends. The historic condition modeling will be based on the assumption that Melrose Drive and North Santa Fe Avenue do not exist. The existing (current) condition modeling will be based on two scenarios: with the existing North Santa Fe Avenue culverts partially clogged with debris, and with the culverts clear. The proposed condition modeling will be based on the three culvert alignments and a bridge alternative. An additional alternative will be performed to analyze a proposed sedimentation basin.
- Prepare cross-section and profile plots to graphically illustrate the results for all seven scenarios.
- Prepare a report summarizing FLUVIAL-12 results and recommendations. The results will be used to assist in designing a project that will mitigate for sediment transport impacts.
- Respond to comments on the technical report generated during the EIR process. This amendment request includes 16 hours for response.

Cost: \$12,000

9. Topographic Survey. PDC will provide surveying services to cross-section Guajome Creek and pond. The limits of the survey will be from the earthen dam at the northerly end of the pond, approximately 2,000 feet northwesterly of the intersection of North Santa Fe Avenue and North Melrose Drive, to 1,500 southeasterly of the same intersection and following the

streambed. The location, station interval and number of data points per cross-section will be determined in the field. It is anticipated that approximately 20 cross-sections will be necessary.

Cost: \$10,000

10. Bridge Feasibility Study. PDC will provide a proposed plan view of the deck for a bridge structure at the intersection of Melrose Drive and North Santa Fe Avenue, and the approaches that deviate from a previous alternative. The plan view of this intersection will include a single conceptual striping plan, resulting slope grading, and local drainage structures. PDC will provide plan and profile sheets for both Melrose Drive and North Santa Fe Avenue. It is assumed the plan and profile sheets will total four (two in each direction). The profile of the proposed intersection will be based on either: animal undercrossing criteria, potential horse trail criteria, or the 100-year storm elevation and freeboard requirement, whichever is higher. A discussion of potential impacts and solutions to the existing utilities that are specifically affected by the bridge variation will be provided in a brief report. Calculations for the local roadway drainage changes resulting from the bridge variation will be appended to the existing drainage report. An opinion of probable construction costs will be included in the study for this alternative.

Cost: \$24,900

Limitations.

1. GEOCON will obtain three (3) soil samples from Guajome Creek and perform sieve analysis for in the Sediment Transport Study. Samples shall be taken from the upstream and downstream project limits, as well as at the Melrose Drive/North Santa Fe Avenue intersection, as identified by PDC.
2. Any special permission for access to the site for surveying services will be obtained by the City.
3. The proposed bridge intersection will be evaluated for one alternative only.
4. Criteria for the animal undercrossing and horse trail will be agreed upon prior to the vertical alignment design, and will be relied upon as a basis for all following design work.
5. Plans will be at a preliminary design level, and will not be usable for construction.
6. Structural details of the bridge section will not be developed.

TOTAL AMENDMENT: \$241,669

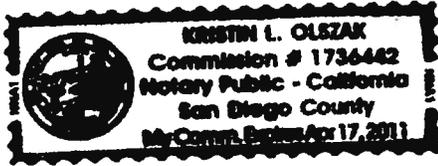
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of San Diego } ss.

On 12-2-08 before me, Kristin Olszak, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Michael Schuxerin  
Name(s) of Signer(s)

personally known to me  
 proved to me on the basis of satisfactory evidence



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

WITNESS my hand and official seal.

Kristin Olszak  
Signature of Notary Public

**OPTIONAL**

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

**Description of Attached Document**

Title or Type of Document: Amendment No. 2 to Professional Services Agreement

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

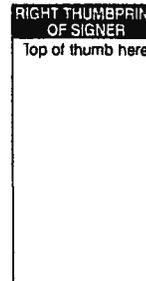
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

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

Signer is Representing: \_\_\_\_\_



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

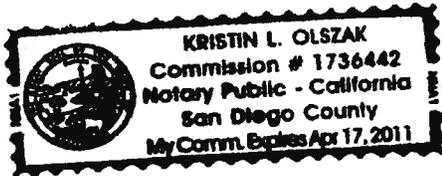
State of California }  
County of San Diego } ss.

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Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Tom Huffman  
Name(s) of Signor(s)

personally known to me  
 proved to me on the basis of satisfactory evidence

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



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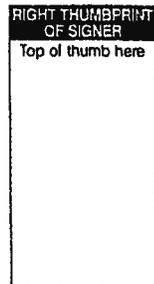
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- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



**CITY OF OCEANSIDE**

**AMENDMENT NUMBER 1 TO  
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT NUMBER 1 TO PROFESSIONAL SERVICES  
AGREEMENT FOR ENVIRONMENTAL AND PRELIMINARY  
ENGINEERING SERVICES FOR THE MELROSE DRIVE EXTENSION  
PROJECT – 212.757793**

This AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT, dated December 10, 2008, for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and HELIX Environmental Planning Incorporated, hereinafter designated as "CONSULTANT."

**RECITALS**

WHEREAS CITY and CONSULTANT entered into a professional services agreement dated June 20, 2007, to provide environmental and preliminary engineering services for the Melrose Drive Extension Project.

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

The Professional Services Agreement shall be further amended to read as follows:

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

A detailed description of the additional scope of services is contained in the Contract Amendment No. 1 attached as Exhibit "A" and incorporated herein by reference.

- B. SECTION ~~13~~<sup>7</sup>, COMPENSATION, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$5,000 FOR THE ADDITIONAL WORK SET FORTH IN SECTION A, ABOVE.

The total amount of compensation for the work required by the Professional Services Agreement, including this amendment, shall not exceed \$781,088.

- 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.

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  
CITY

APPROVED AS TO FORM

BY: Otto Weiss 12/22/08

BY: Robert Samuelson, ASST.

PETER WEISS  
TITLE: CITY MANAGER

CITY ATTORNEY

HELIX ENVIRONMENTAL  
PLANNING INCORPORATED

BY: Michael Schwerin  
Michael Schwerin/Chief Executive Officer

BY: Tom Huffman  
Tom Huffman/Chief Operating Officer

33-0493636  
Employer ID No.

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

EXHIBIT A

A detailed description of additional work.

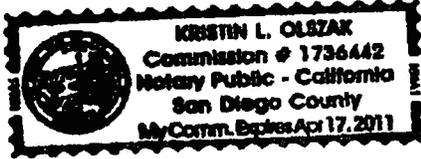
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to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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



WITNESS my hand and official seal.

Kristin Olszak  
Signature of Notary Public

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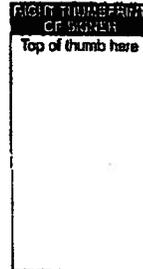
Signer(s) Other Than Named Above: \_\_\_\_\_

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- Partner --  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of San Diego } ss.

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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.



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Kristin Olszak  
Signature of Notary Public

**OPTIONAL**

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- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



"EXHIBIT A"



7578 El Cajon Boulevard, Suite 200

La Mesa, CA 91941

fax (619) 462-0552

phone (619) 462-1515

Inland Empire Office

phone (951) 328-1700

July 2, 2008

COO-01

Mr. Abraham Chen  
City of Oceanside  
Department of Public Works  
300 North Coast Highway  
Oceanside, CA 92054

Subject: Contract Amendment No. 1 to Provide Environmental Consulting Services for the Melrose Drive Extension Project

Dear Mr. Chen:

HELIX Environmental Planning, Inc. (HELIX) is pleased to submit this contract amendment request (Amendment No. 1) to the City of Oceanside (City) to provide additional environmental consulting services for the Melrose Drive Extension Project (project).

HELIX is under contract with the City to provide environmental and preliminary engineering services for the project, pursuant to our Professional Services Agreement dated June 20, 2007 (Agreement). This Amendment addresses additional environmental services completed at the City's request that were not covered in our Agreement. Specifically, the City requested a second Environmental Impact Report (EIR) scoping meeting that was held on March 13, 2008.

#### SCOPE OF SERVICES

##### Second EIR Scoping Meeting

An EIR scoping meeting was held on January 24, 2008 at Guajome Regional Park. Based on community input, the City decided to conduct a second scoping meeting and requested that HELIX and appropriate team members plan and attend the second meeting. As such, select members of the Project team at HELIX; Katz & Associates; Project Design Consultants; and Linscott, Law & Greenspan planned, organized and staffed a second EIR scoping meeting on March 13, 2008 at the San Luis Rey United Methodist Church.

#### COST ESTIMATE AND PAYMENT PROCEDURES

To account for this out-of-scope task, HELIX is requesting an additional \$5,000 to cover time and materials expended for this effort, which brings our currently authorized Agreement amount from \$776,088 to \$781,088. Invoicing and payment procedures shall continue in accordance with the terms of our Agreement.

#### EXECUTION OF AGREEMENT

This quote is good for 30 days from the date of this letter. This Amendment will become a contract upon HELIX's receipt of this original, including any Exhibits, signed by an authorized City representative.



Amendment to Mr. Chen  
July 2, 2008

Page 2 of 2

We look forward to continuing to work with you on this project. If you have any questions, please call Séan Cárdenas at (619) 462-1515.

Sincerely,

A handwritten signature in black ink that reads "Tamara S. Ching". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Tamara S. Ching  
Vice President, Planning Division

---

I hereby authorize HELIX to begin work in accordance with this Amendment.

**CITY OF OCEANSIDE**

Signed by: \_\_\_\_\_ Printed: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**CITY OF OCEANSIDE**

**PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: Melrose Drive Extension**

THIS AGREEMENT is made and entered into this 20<sup>th</sup> day of June, 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Helix Environmental Planning Incorporated, hereinafter designated as "CONSULTANT."

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The project is more particularly described as follows: The CONSULTANT shall provide environmental and preliminary engineering services for Melrose Drive Extension project. Description of particular items of work covered in this Agreement is provided in Exhibit "A" attached hereto and made a part hereby.
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.

**Melrose Drive Extension**

**4. LIABILITY INSURANCE.**

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

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

Comprehensive General Liability Insurance  
(bodily injury and property damage)

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

Commercial General Liability Insurance  
(bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific aggregate	\$ 2,000,000

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

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

4.3 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.

4.4 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

## Melrose Drive Extension

- 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 conduct, negligent acts, errors or omissions or wrongful acts or 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

**Melrose Drive Extension- number**

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 \$776,088.

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.

Phase I. First Screencheck Environmental Impact Report (EIR) and Draft Technical Studies.

CONSULTANT shall prepare and deliver the draft technical studies and the first screencheck EIR to the City Engineer within 140 calendar days of the execution of this agreement. No work shall be performed by CONSULTANT beyond Phase I until the City Engineer has given approval to perform Phase II

Phase II. Final EIR and Final Technical Studies

CONSULTANT shall prepare and deliver the final EIR and technical studies to the City Engineer within 480 calendar days of the execution of this agreement.

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.

**Melrose Drive Extension**

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

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

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

11. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

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

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures this 20th day of June, 2007.

HELIX ENVIRONMENTAL  
PLANNING INCORPORATED

By: Tom Hoffmann  
Tom Hoffmann/President

By: Michael Schwerin  
Michael Schwerin/Vice President

33-0493636  
Employer ID No.

CITY OF OCEANSIDE

By: Peter Weiss  
Peter Weiss, Interim City Manager

APPROVED AS TO FORM:

Barbara Hamilton, ARST.  
City Attorney

**NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.**