

STAFF REPORT



ITEM NO. 10

CITY OF OCEANSIDE

DATE: August 21, 2013

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **PROFESSIONAL SERVICES AGREEMENT WITH SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT FOR THE CITY'S COSTS TO PARTICIPATE IN A REGIONAL INTENSIVE RECEIVING WATER MONITORING PROGRAM**

SYNOPSIS

Staff recommends that the City Council approve a professional services agreement in the amount of \$89,743 with Southern California Coastal Water Research Project (SCCWRP) of Costa Mesa for the City's costs to participate in a regional intensive receiving water monitoring program; and authorize the City Manager to execute the agreement.

BACKGROUND

Municipalities with publicly-owned treatment works (POTWs) in the San Diego region that discharge to the Pacific Ocean are required to conduct intensive receiving water monitoring at and around the ocean outfall pipe every five years pursuant to applicable National Pollution Discharge Elimination System (NPDES) permits/waste discharge requirements.

The Board strongly encourages and for some, requires participation by POTW municipalities in Bight '13, a regional monitoring program that is coordinated by SCCWRP (attached). The City submitted to the Board a proposal to participate in Bight 13 (attached) and received approval on June 18, 2013 (attached). Bight '13 satisfies the monitoring requirements of the NPDES permit.

ANALYSIS

The City received a proposal in the amount of \$89,743 from SCCWRP (attached) for the City's costs for sampling and laboratory analyses for the benthic and biological portions of the intensive monitoring program. SCCWRP is a public agency and conducted a formal bidding process (RFP attached).

The proposed intensive monitoring is done at seven locations near the discharge point of the City's treated wastewater ocean outfall pipe, 1.7 miles from shore. The

monitoring consists of three parts; water quality (bacteriological, clarity, dissolved oxygen, pH), benthic (sediment chemistry and infauna), and biological (fish and macroinvertebrates). SCCWRP will conduct the sediment and biological monitoring, including all logistics, sampling, sample transfer, laboratory analysis, quality assurance evaluations, and information management associated with Oceanside's Intensive Monitoring Requirements under its NPDES monitoring and reporting requirements. SCCWRP will also coordinate the Bight '13 program and provide a data set in compliance with all state requirements for methods and quality assurance for upload to the California Environmental Data Exchange Network as required by the Board.

The water quality portion of the intensive monitoring requirement will not be done by SCCWRP. A contract will be awarded separately. The estimated cost for the water quality monitoring is \$30,000.

FISCAL IMPACT

The FY 2013-14 available budget in the San Luis Rey Wastewater Laboratory fund (800806721.5305) is \$200,000. The City's total cost share for participation in the regional receiving water monitoring program is \$89,743; therefore, sufficient funds are available.

CITY ATTORNEY'S ANALYSIS

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

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The Utilities Commission reviewed staff's recommendation at its regularly scheduled meeting on July 16, 2013.

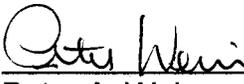
RECOMMENDATION

Staff recommends that the City Council approve a professional services agreement in the amount of \$89,743 with Southern California Coastal Water Research Project of Costa Mesa for the City's costs to participate in a regional intensive receiving water monitoring program; and authorize the City Manager to execute the agreement.

PREPARED BY:

For 

Mark Hammond
Compliance Officer



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



Cari Dale, Water Utilities Director



Michael Blazenski, Interim Financial Services Director



Exhibit A: Professional Services Agreement

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

**PROJECT: REGIONAL INTENSIVE RECEIVING WATER MONITORING
PROGRAM - 800806721**

THIS AGREEMENT, dated _____, 2013 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The CONSULTANT desires to provide regional intensive receiving water monitoring project as more particularly described in the CONSULTANT'S proposal dated June 12, 2013, attached hereto and incorporated herein as Exhibit A.
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. 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.
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

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to premises and automobile.

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

Comprehensive General Liability Insurance
(bodily injury and property damage)

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

Commercial General Liability Insurance
(bodily injury and property damage)

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

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

4.3 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY 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.

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.

**REGIONAL INTENSIVE RECEIVING
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- 4.6 CONSULTANT shall provide thirty (30) days written notice to the CITY should any policy required by this Agreement 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, at minimum, 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.** To the greatest extent allowed by law, CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the negligent acts, errors or omissions or wrongful acts or conduct of the CONSULTANT, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to

**REGIONAL INTENSIVE RECEIVING
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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 \$89,743. No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the CITY. CONSULTANT shall obtain approval by the CITY prior to performing any work that results in incidental expenses to CITY.
8. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in every detail to the satisfaction of the CITY no later than December 31, 2014.
9. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
10. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

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

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. **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

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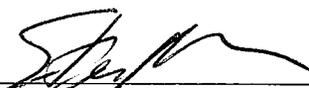
work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including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

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

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

SOUTHERN CALIFORNIA COASTAL
WATER RESEARCH PROJECT

CITY OF OCEANSIDE

By: 

By: _____

Name/Title *Stephen B. Weisberg, Ph.D.
Executive Director*

Peter Weiss, City Manager

By: _____

APPROVED AS TO FORM:

Name/Title



95-2646053

City Attorney

Employer ID No.

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

See Attached California All Purpose Acknowledgment

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

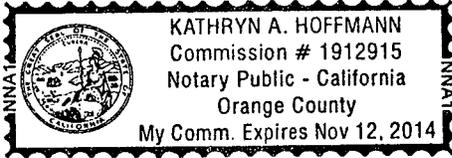
On 08-05-2013 before me, Kathryn A. Hoffmann, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Stephen B. Weisberg
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: Kathryn A. Hoffmann
Signature of Notary Public

Place Notary Seal and/or Stamp 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: _____ Signer's Name: _____

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual Individual

Partner — Limited General Partner — Limited General

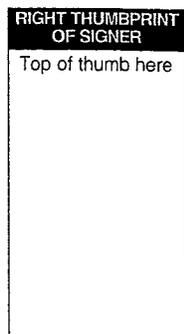
Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

Signer Is Representing: _____ Signer Is Representing: _____





SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT

7171 FENWICK LANE WESTMINSTER, CA 92683-5218
714-894-2222 FAX 714-894-9699

"Upon motion of Commissioner Horvath, seconded by Commissioner Coe, the following resolution was unanimously adopted on December 13, 2002.

RESOLUTION #02-05

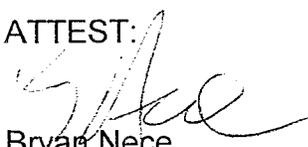
WHEREAS, the Southern California Coastal Water Research Project Authority (SCCWRP) is a joint powers agency created for the purpose of increasing the scientific knowledge of the aquatic ecological systems in the Southern California coastal waters as more fully described in its formation agreement;

WHEREAS, SCCWRP's governing body is adopting an encompassing resolution effective December 13, 2002, authorizing the execution of contracts and any amendments on behalf of the Agency as set forth below:

NOW THEREFORE BE IT RESOLVED:

1. Grants and contracts may be entered into by the Executive Director to the limit of One Hundred Thousand Dollars (\$100,000) per individual agreement and any grant or contract in excess of said sum but no more than Two Hundred and Fifty Thousand Dollars (\$250,000) may be entered into by the Executive Director provided it is approved by the Chair or Vice-Chair of the Commission prior to acceptance and execution by the Executive Director. Any grant or contract in excess of Two Hundred and Fifty Thousand Dollars (\$250,000) shall require the prior express approval of the Commission.
2. When the Executive Director is absent or otherwise unable to execute a grant or contract he may delegate the execution to the Deputy Director when the grant or contract has already been reviewed and approved by the Executive Director, provided that the Deputy Director shall promptly advise the Executive Director of any action taken pursuant to this authority.

ATTEST:


Bryan Nece
Secretary



SOUTHERN CALIFORNIA COASTAL WATER RESEARCH PROJECT
A Public Agency for Environmental Research

June 12, 2013

Mark Hammond
City of Oceanside
Compliance Officer, Water Utilities Department
300 North Coast Hwy.
Oceanside, CA 92054

Dear Mr. Hammond,

This cost proposal reflects the funding necessary to conduct the sediment and transect monitoring associated with Oceanside's Intensive Monitoring Requirements under their National Pollutant Discharge Elimination System (NPDES) Monitoring and Reporting Requirements. The cost proposal includes the preferred interaction with the 2013 Southern California Bight Regional Marine Monitoring Program (Bight'13) in order to provide improved information and updated methods/technology for collecting this monitoring data.

The cost proposal includes all logistics, sampling, sample transfer, laboratory analysis, quality assurance evaluations, and information management. You will receive a data set in compliance with all state requirements for methods and quality assurance, in a seamless format for upload to the California Environmental Data Exchange Network (CEDEN) required by the Regional Water Quality Control Board. As we discussed, you will still need a contractor for preparing your Oceanside Receiving Water Monitoring Report, but all data related to Bight will be analyzed and reported at no charge.

Please feel free to contact me should you have additional questions of concerns (714 755 3202).

Best regards,

Kenneth Schiff
Deputy Director

Table 1. Cost for sampling and laboratory analysis.

	Unit Cost	Bight Samples		Oceanside Compliance Samples		Total Cost
		Sample Count	Cost	Sample Count	Cost	
Sediment Grab	765	4	3060	10	7650	10,710
Trawl	1558	2	3116	1	1558	4,674
Tox - 1 spp	1018	4	4072	10	10180	14,252
Grain Size	148	4	592	10	1480	2,072
TOC/TN	159	4	636	10	1590	2,226
Metals	159	4	636	10	1590	2,226
CHCs	152	4	608	10	1520	2,128
PAH	152	4	608	10	1520	2,128
PBDEs	152	4	608	10	1520	2,128
Infauna	1765	4	7060	10	17650	24,710
IM/QA (@ 30%)		4	6299	10	13877	20,176
Administrative Costs (@ 5%)		0	0	10	2313	2,313
Total			27,295		62,448	89,743