

STAFF REPORT



ITEM NO. 11
CITY OF OCEANSIDE

DATE: May 28, 2014
TO: Honorable Mayor and City Councilmembers
FROM: Development Services Department
SUBJECT: **APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR MASTER DRAINAGE PLAN SUPPLEMENTAL MODELING AND FEE UPDATE**

SYNOPSIS

Staff recommends that the City Council approve a Professional Services Agreement with Tory Walker Engineering, Inc., of Vista, in the amount of \$183,100 for updating the City's Master Drainage Plan and the drainage impact fee; and authorize the City Manager to execute the agreement.

BACKGROUND

On October 2, 2013, the City Council approved the most recent update to the Master Plan of Drainage (MPD). The MPD is updated regularly as a requirement of the Mitigation Fee Act, and to insure that the City's drainage facilities are neither undersized nor wastefully overbuilt.

The MPD update was prepared by Tory Walker Engineering. The professional services necessary to complete the update were awarded by the City Council in a contract approved on April 6, 2011; and in a subsequent amendment on April 4, 2012.

ANALYSIS

Project Description

The recommended services are in two parts: The first, and larger part of the work, requires Tory Walker Engineering to take a focused look at several storm drain systems that may be sufficient as originally-sized because the streets can handle the runoff without overtopping the curbs or creating a nuisance. Where streets are unable to handle storm water runoff, the MPD will continue to indicate what storm drain systems need to be increased with larger-diameter or parallel storm drains.

The City will contract separately with a survey firm to obtain the necessary topographic information. Tory Walker Engineering will then use the data for a computerized hydraulic model of the streets and adjacent land. This detailed model allows the City to know what existing underground storm drain systems will not require pipe upsizing or other costly capacity expansion to keep roads and shoulder areas drivable and walkable.

The second part of the work requires Tory Walker Engineering to update all of the needed drainage facilities and their costs. These facilities were initially identified in the 2013 update of the MPD, but some of the underground storm drains may not need upsizing depending on the results of the study mentioned above. The costs of the remaining required drainage facilities will be compared with future development. This effort includes a nexus study comparing future improvement needs with a proposed drainage impact fee. A “right-sized” drainage facility program assures that storm drains and drainage channels are sufficient as the City grows.

Selection Process

Staff invited proposals from the region’s engineering community. However, only Tory Walker Engineering responded. The reason for a lack of response from other firms is twofold: Few firms in southern California have developed expertise in this specialty area of civil engineering. Second, Tory Walker Engineering is building on the proprietary mapping and software already used to complete the 2013 update of the MPD. Staff reviewed Tory Walker Engineering’s cost proposal, and recommends it as fair and appropriate for the amount of work to be contracted.

FISCAL IMPACT

The contract price with Tory Walker Engineering is \$183,100. The FY 2014-15 CIP budget includes \$250,000 in new project funds in account 905137200505 Drainage District Impact Fees. Therefore, sufficient funds are available.

Approval of the professional service agreement is requested, but Tory Walker Engineering will not be authorized to begin work unless the City Council also approves the project funding in the FY 2014-15 CIP budget.

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 a Professional Services Agreement with Tory Walker Engineering, Inc., of Vista, in the amount of \$183,100 for updating the City's Master Drainage Plan and the drainage impact fee; and authorize the City Manager to execute the agreement.

PREPARED BY:



Gary Kellison
Senior Civil Engineer

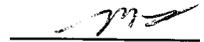
SUBMITTED BY:



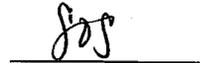
Steven R. Jepsen
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



Scott O. Smith, City Engineer



James R. Riley, Financial Services Director



Attachment:

1. Professional Services Agreement

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

**PROJECT: Master Drainage Plan Supplemental Modeling and Fee Update
CIP ACCT: 905137200505**

THIS AGREEMENT, dated May 28, 2014, for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Tory R. Walker Engineering, Inc., 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 project consists of two parts:
 1. Re-analyze several locations identified as inadequate in the current master plan of drainage to determine if street channel flow can handle stormwater runoff without a separate underground storm drain, and
 2. Write a Master Facilities Plan, complete the development impact fee calculation, and a nexus study to establish a city-wide fee for Master Plan of Drainage projects.

The CONSULTANT'S complete scope of services is more fully described in Exhibit A, pages 8-11, and pages 16-17, attached hereto and incorporated herein.

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.

Master Drainage Plan Supplemental Modeling and Fee Update

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 to premises and automobile.

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

Comprehensive General Liability Insurance
(bodily injury and property damage)

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

Commercial General Liability Insurance
(bodily injury and property damage)

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

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

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

Master Drainage Plan Supplemental Modeling and Fee Update

- 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.
- 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.

Master Drainage Plan Supplemental Modeling and Fee Update

6. **CONSULTANT'S INDEMNIFICATION OF CITY.** To the greatest extent allowed by law (including, without limitation, California Civil Code section 2782.8), 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 CONSULTANT'S work, including 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 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 founded upon, 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. **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 CONSULTANT'S participation in this project.

8. **COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of \$183,100.

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 results in incidental expenses to CITY.

9. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in every detail to the satisfaction of the Engineer by June 30, 2015.

Master Drainage Plan Supplemental Modeling and Fee Update

10. **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.

11. **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.

12. **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.

13. **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. 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.

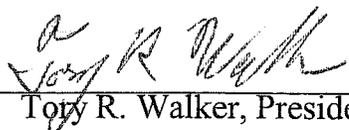
14. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

Master Drainage Plan Supplemental Modeling and Fee Update

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.

Tory R. Walker Engineering, Inc.

CITY OF OCEANSIDE

By: 
Tory R. Walker, President

By: _____
City Manager

Date: 5/6/14

Date: _____

By: 
Jennifer L. Walker, Secretary

Date: 5/6/14

APPROVED AS TO FORM:

City Attorney

33-0892309
Employer ID No.

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

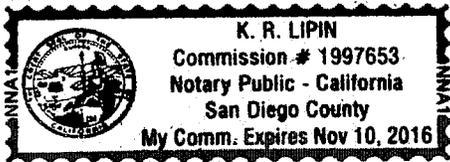
State of California

County of San Diego

On May 6, 2014 before me, K.R. Lipin, Notary Public

personally appeared Tony R. Walker and Jennifer L. Walker

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: City of Oceanside Prof. Svcs. Agmt (MDP) 2 of 2

Document Date: May 28, 2014 Number of Pages: 10

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Tony R. Walker

Corporate Officer - Title(s): President

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

RIGHT THUMBPRINT OF SIGNER

Top of thumb here



Signer Is Representing: Tony R. Walker Engineering

Signer's Name: Jennifer L. Walker

Corporate Officer - Title(s): Secretary

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

RIGHT THUMBPRINT OF SIGNER

Top of thumb here



Signer Is Representing: Tony R. Walker Engineering

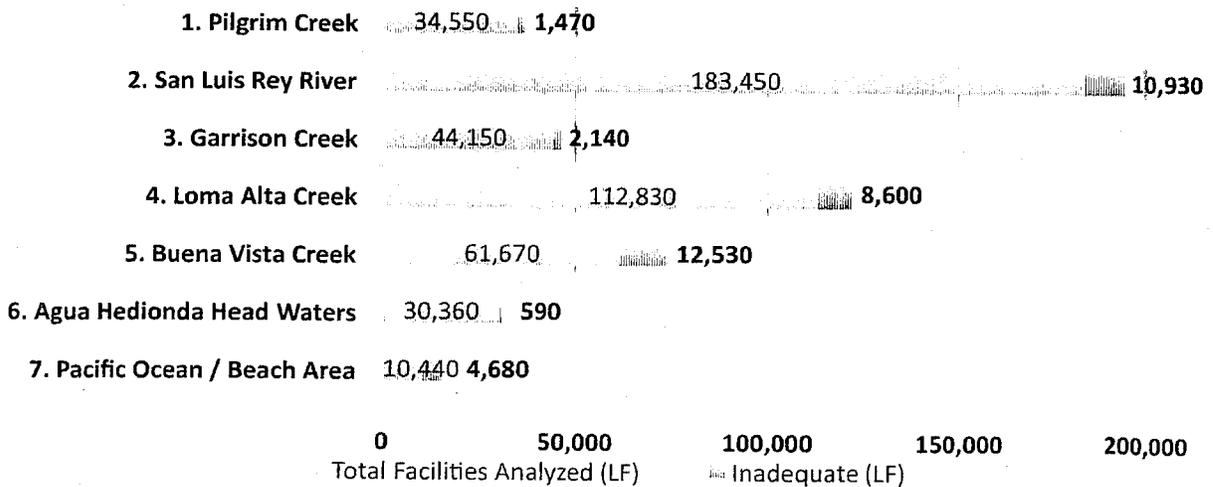
SCOPE OF WORK

EXHIBIT A

Task 1: Supplemental Modeling

The purpose of this task is to further analyze inadequate areas as identified in the 2013 Master Plan of Drainage (MPD). The following steps will be taken by the Consultant in analyzing overland flow in the public right-of-way:

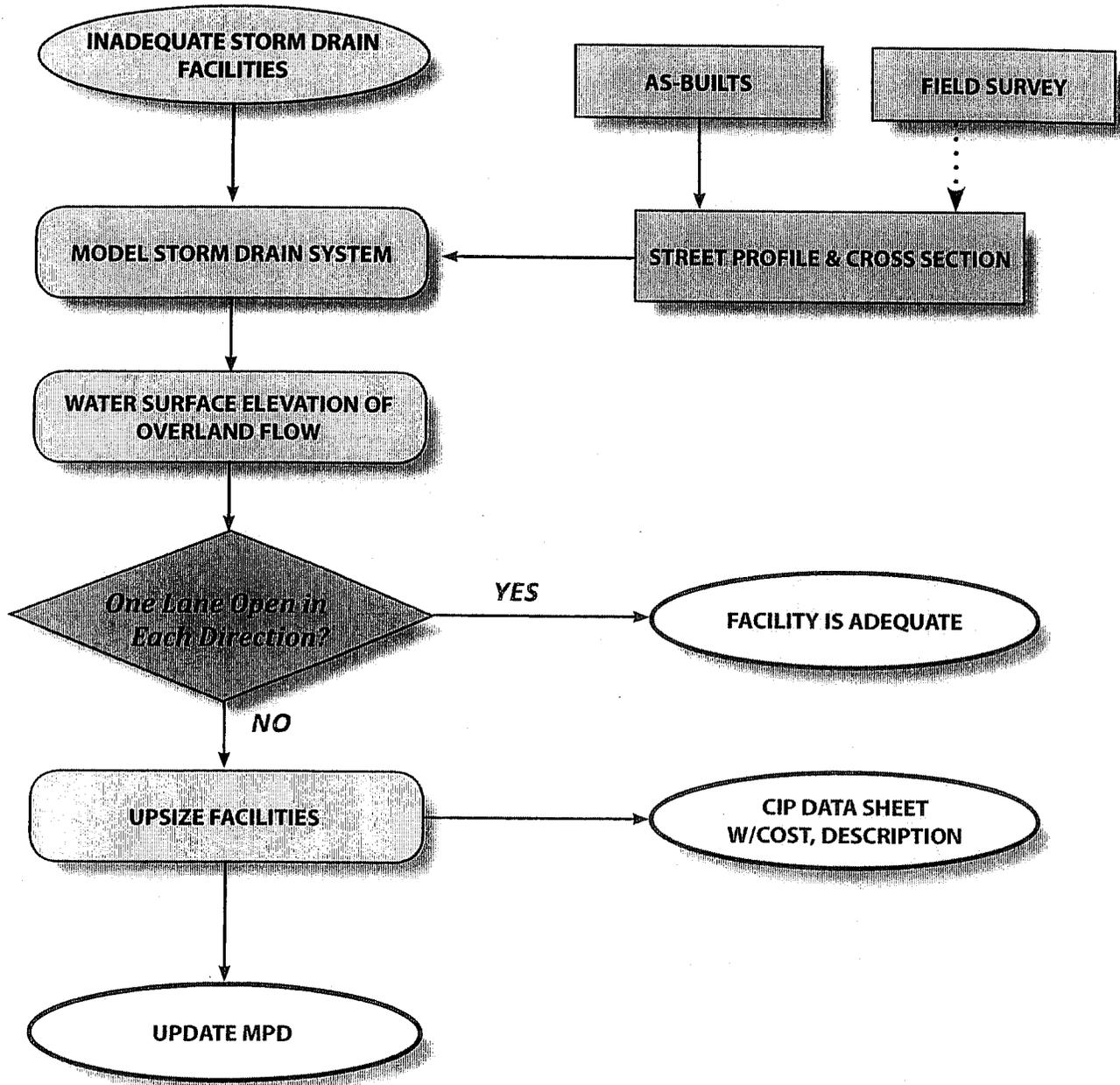
1. Select storm drain facilities from 2013 MPD that were identified as inadequate for the 10- and 25-year storms, and group adjacent facilities for modeling.
2. From as-built construction drawings, determine street profile and cross section that will carry the excess overland flow. If information is not available, ask the City to survey the site.
3. Model each local system using the 50- and 100-year storm events. Determine depth of overland flow relative to the street cross section.
4. Determine facility adequacy. The facility is generally deemed adequate for a particular size storm if the flow does not overtop the curbs in a 50-year storm and at least one lane of traffic is open in each direction.
5. If the drainage system is still deemed inadequate, then upsize the facilities. The recommended facility will depend on the site configuration, and can be either new, replacement or parallel to existing storm drainage facilities.
6. Prepare data sheet describing the work to be done, shown on a location map, along with an engineer's estimate of construction cost.
7. The consultant will also analyze selected 100-year inadequate locations. These possible locations may be chosen based on City maintenance records, discussion with City staff, or where the facility ends in a sump (e.g., cul-de-sac).
8. Update the 2013 MPD figures and tables with all modifications and revisions from the above steps.



Summary of Storm Drain Analysis (from 2013 MPD)



TASK 1: SUPPLEMENTAL MODELING WORK PLAN



Task 2: Storm Drainage Collection System Impact Fee Report

The purpose of this task is to calculate a defensible storm drainage fee schedule that can be applied to all private development applications. The following steps will be taken by the Consultant team:

1. Do a field “windshield” survey to become acquainted with the physical characteristics and general improvement needs and standards of the City.
2. Identify 2103 MPD inadequate facilities list for improvement.
3. Meet with City management and planning staff to determine the land use categories for which development impact fees will be calculated. This will be based upon data from grouped land use categories in the General Plan and Specific Plans.
4. Using existing GIS land use information, the Consultant will populate a table similar to the one below. The land use database may need to be completed on levels that recognize any specific area that may need a disproportionate amount of infrastructure (as an overlay zone) or by storm drainage zones recognizing their uniqueness in capital improvements. This would be determined at that point in time.

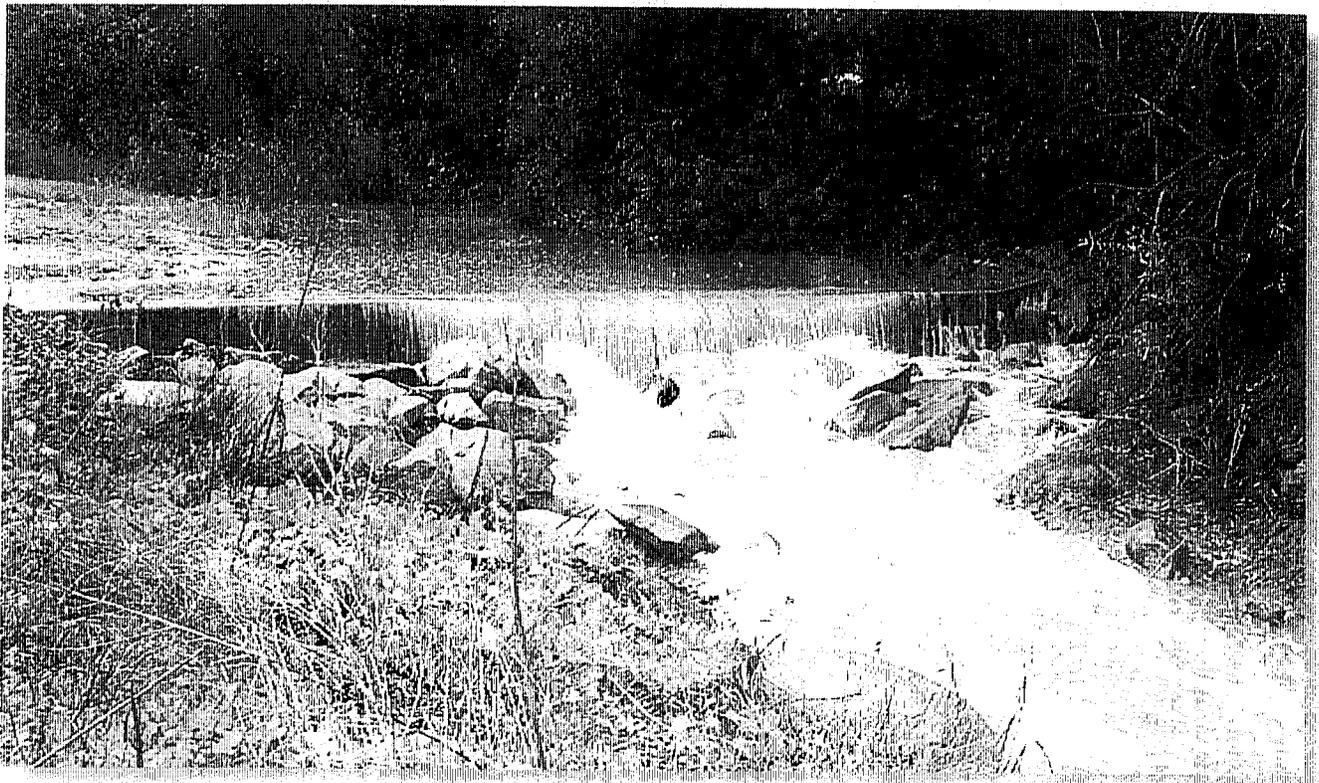
LAND USE CATEGORY	DEVELOPED UNITS / ACRES	UNDEVELOPED UNITS / ACRES	TOTAL UNITS / ACRES
Detached Dwellings			
Attached Dwellings			
Mobile Home Dwellings			
Commercial Lodging Dwellings			
Retail / Service Uses			
Office / Medical Uses			
Industrial Uses			
TOTAL			

Example Only

5. Review MPD cost estimates and textual explanations.
6. Prepare a detailed Draft *Master Facilities Plan* capital improvement identifying every project to be mentioned in the *Development Impact Fee Calculation and Nexus Report*.
7. Prepare the draft report for the combined *Master Facilities Plan* document with appropriate schedules, definitions, and commentary text and attend a review meeting with staff for final modification and consensus of the Master Facilities Plan project list. Amend project detail as required.
8. Identify and analyze the demand drivers specific to each infrastructure or service area. The drivers are the factors of nexus demand related to each land use and would be based upon the project plans or City productivity records.



9. Apply the RCS-copyrighted computerized formulas for the distribution of the benefits of, nexus for, and impact of each group of projects on each of the above categories of land use. Undertake the proportional analysis necessary to identify the appropriate burden to be placed upon both the existing and future infrastructure.
10. Develop a specific draft development impact fee structure (calculation) for each of the previously identified development impact fee categories.
11. Meet with the staff to review accuracy and completeness and with the City Attorney to review the draft development impact fee calculations and relevant California State Statutes. Specifically considering Government Code §66000, et. seq., relating to land use and definition of fees in light of current State law, recent court decisions and United States Supreme Court rulings.
12. Prepare comprehensive draft report consisting of the fee-structures and the necessary relevant nexus text and report with recommended fees. One draft report (cycle) is included in the proposal and then the final report. Amend the report as required and issue a Final Report.
13. Attend a City Council study session and up to two public hearings of the resultant fees and the process through which they were determined.



Buena Vista Creek



OCEANSIDE STAFF TIME

We anticipate requiring some Oceanside staff time for this project.

Below are estimated times:

Task 1: Supplemental Modeling

- Providing street as-built drawings of inadequate areas 24 hrs
- Field spot elevations where data not available 12 hrs
- Entering facilities into GIS 60 hrs
- Meetings 24 hrs

Task 2: Storm Drainage Collection System Impact Fee Report

- Meetings with City Engineer 12 hrs
- Meetings with City Planner 8 hrs
- Possible City Council meetings 8 hrs

Task 3: Annual Maintenance - Inventory and Database Updates (5-years)

- Entering facilities into GIS 60 hrs
- Meetings 24 hrs

PROJECT FEES

We have estimated Consulting fees for the completion of the tasks as outlined.

Task 1: Supplemental Modeling \$157,580

Task 2: Storm Drainage Collection System
Impact Fee Report \$25,520

Task 3: Annual Maintenance
Inventory and Database Update \$36,700 (first year)
\$191,988 (five years)



HOURLY RATES

Our current fee schedule is listed below.

Principal	\$225/hour
Senior Project Manager	\$200/hour
Impact Fee Specialist	\$175/hour
Project Manager	\$160/hour
GIS Manager	\$140/hour
Senior Engineer	\$140/hour
Associate Engineer	\$120/hour
Junior Engineer	\$100/hour
Engineering Technician	\$85/hour
CADD/GIS Technician	\$85/hour
Administration	\$70/hour

INVOICING SCHEDULE

We will invoice the City monthly, by the 10th of the following month.

