

AGREEMENT TO FURNISH ENGINEERING CONSULTING SERVICES TO PROVIDE WATER QUALITY MANAGEMENT PLAN TRAINING AND PLAN REVIEW SERVICES

This agreement for the performance of engineering design and plan review services for water quality management plan submittals ("Agreement") is made and entered into this 1st day of May, 2007 by and between the City of Redlands, a municipal corporation ("City"), and AEI-CASC Engineering, Inc. ("Consultant") who are sometimes individually referred to herein as a "Party" and together, as the "Parties."

In consideration of the mutual promises, covenants and conditions hereinafter set forth, City and Consultant agree as follows:

ARTICLE 1 - ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant to perform engineering design services for City's Water Quality Management Plan (WQMP) Training and Plan Review Services (the "Services").
- 1.2 The Services shall be performed by Consultant in a professional manner, and Consultant represents that it has the skill and the professional expertise necessary to provide the Services to City at a level of competency presently maintained by other practicing professional consultants in the industry providing like and similar types of services.

ARTICLE 2 - SERVICES OF CONSULTANT

- 2.1 The Services which Consultant shall perform are more particularly described in Exhibit "A," entitled "Scope of Services," which is attached hereto and incorporated herein by this reference.
- 2.2 Consultant shall comply with all applicable Federal, State and local laws and regulations in the performance of this Agreement including, but not limited to, the American's with Disabilities Act and the Fair Employment and Housing Act.

ARTICLE 3 - RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in its possession that is pertinent to the performance of Services.
- 3.2 City will make provision for Consultant to enter upon City-owned property, as reasonably required by Consultant, to perform the Services.
- 3.3 City designates Tom T. Fujiwara to act as its representative with respect to the Services to be performed under this Agreement.

ARTICLE 4 - PERIOD OF SERVICE

- 4.1 Consultant shall perform the Services in a prompt and diligent manner and in accordance with the schedule established by City.

ARTICLE 5 - PAYMENTS TO THE CONSULTANT

- 5.1 The total compensation for Consultant's performance of the Services shall not exceed the amount of Fifty-Three Thousand Dollars (\$53,000). City shall pay Consultant on a time and materials basis up to the not to exceed amount, based upon the hourly rates shown in Exhibit "B," entitled "Rate Schedule."
- 5.2 Consultant shall bill City within ten days following the close of each month by submitting an invoice indicating the portion of the Services performed, who performed the Services and the detailed cost of all Services, including backup documentation. Payments by City to Consultant shall be made within thirty (30) days after receipt and approval of Consultant's invoice, by warrant payable to Consultant.
- 5.3 All notices shall be made in writing and may be given by personal delivery or by mail. Notices, sent by mail shall be addressed as follows:

City

Tom T. Fujiwara, P.E.
City of Redlands
Public Works Department
PO Box 3005
Redlands, CA 92373

Consultant

Richard J. Sidor, P.E.
AEI-CASC Engineering, Inc.
937 S. Via Lata, Suite 500
Colton, CA 92324

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to whom notices and payments are to be given by giving notice pursuant to this section.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

- 6.1 All insurance required by this Agreement shall be maintained by Consultant for the duration of this Agreement and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by City. Consultant shall not perform any Services pursuant to this Agreement unless and until all required insurance listed below is obtained by Consultant. Consultant shall provide City with Certificates of Insurance and endorsements evidencing such insurance prior to commencement of Services. All insurance policies shall include a provision prohibiting cancellation of the policy except upon thirty (30) days prior written notice to City.

- 6.2 A. Consultant shall secure and maintain Workers' Compensation and Employer's Liability insurance throughout the duration of this Agreement in amounts which meet statutory requirements with an insurance carrier acceptable to City.
- B. Consultant expressly waives all rights to subrogation against City, its elected officials, employees and volunteers for losses arising from work performed by Consultant for City by expressly waiving Consultant's immunity for injuries to Consultant's employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this Agreement extends to any claim brought by or on behalf of any employee of Consultant. This waiver is mutually negotiated by the Parties. This waiver shall not apply to any damage resulting from the negligence of City, its agents and employees. To the extent any of the damages referenced herein were caused by or resulted from the concurrent negligence of City, its agents or employees, the obligations provided herein to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of Consultant, its officers, agents and employees.
- 6.3 Consultant shall secure and maintain in force throughout the duration of this Agreement comprehensive general liability insurance with carriers acceptable to City. Minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury is required. Consultant shall obtain an endorsement that City shall be named as an additional insured.
- 6.4 Consultant, shall secure and maintain professional liability insurance throughout the duration of this Agreement in the amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate.
- 6.5 Consultant shall have business auto liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability. This coverage shall include all Consultant-owned vehicles used in connection with the Services, hired and non-owned vehicles, and employee non-ownership vehicles. Consultant shall obtain an endorsement that City shall be named as an additional insured.
- 6.6 Consultant is expressly prohibited from assigning any of the Services covered by this Agreement without the express prior written consent of City. In the event of mutual agreement between Parties to assign a portion of the Services, Consultant shall add the assignee as an additional insured and provide City with the insurance endorsements prior to any Services being performed by the assignee. Assignment does not include printing or other customary reimbursable expenses that may be provided for in this Agreement.

- 6.7 Consultant shall defend, indemnify and hold harmless City, its elected officials, officers, employees and agents, from and against any and all actions, claims, demands, lawsuits, losses and liability for damages to persons or property, including costs and attorneys' fees, that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of or in connection with Consultant's negligent and/or intentionally wrongful acts or omissions under this Agreement; but excluding such actions, claims, demands, lawsuits and liability for damages to persons or property arising from the negligence or intentionally wrongful acts of City, its officials, employees or agents.

ARTICLE 7 - CONFLICTS OF INTEREST

- 7.1 Consultant covenants and represents that it does not have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the geographical area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's Services. Consultant further covenants and represents that in the performance of its duties hereunder, no person having any such interest shall perform any Services under this Agreement.
- 7.2 Consultant agrees it is not a designated employee within the meaning of the Political Reform Act because Consultant:
- A. Does not make or participate in:
- (I) the making or any governmental decisions regarding approval of a rate, rule or regulation, or the adoption or enforcement of laws;
 - (ii) the issuance, denial, suspension or revocation of permits, licenses, applications, certifications, approvals, orders or similar authorizations or entitlements;
 - (iii) authorizing City to enter into, modify or renew a contract;
 - (iv) granting City approval to a contract that requires City approval and to which City is a party, or to the specifications for such a contract;
 - (v) granting City approval to a plan, design, report, study or similar item;
 - (vi) Adopting, or granting City approval of, policies, standards or guidelines for City or for any subdivision thereof.
- B. Does not serve in a staff capacity with City and in that capacity participate in making a governmental decision or otherwise perform the same or substantially all the same duties for City that would otherwise be performed by an individual holding a position specified in City's Conflict of Interest Code under Government Code section 87302.

- 7.3 In the event City officially determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file the subject Form 700 with the City Clerk's office pursuant to the written instructions provided by the Office of the City Clerk.

ARTICLE 8 - GENERAL CONSIDERATIONS

- 8.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for in-house counsel of the Parties at rates prevailing in San Bernardino County, California.
- 8.2 All documents, records, drawings, designs, cost estimates, electronic data files, databases and other documents developed by Consultant pursuant to this Agreement, and any copyright interest in such documents, shall become the property of City and shall be delivered to City upon completion of the Services, or upon the request of City. Any reuse of such documents and any use of incomplete documents will be at City's sole risk.
- 8.3 Consultant is for all purposes an independent contractor. Consultant shall supply all tools and instrumentalities required to perform the Services described in this Agreement. All personnel employed by Consultant are for its account only, and in no event shall Consultant or any personnel retained by it be deemed to have been employed by City or engaged by City for the account of, or on behalf of City.
- 8.4 Unless earlier terminated as provided for herein, this Agreement shall terminate upon completion and acceptance of the Services by City.
- 8.5 This Agreement may be terminated by the City, without cause, by providing five (5) business days prior written notice to the Consultant (delivered by certified mail, return receipt requested) of intent to terminate.
- 8.6 If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed services, and (2) any payment due Consultant at the time of termination may be adjusted to the extent of any additional costs to City occasioned by any default by Consultant.
- 8.7 Upon receipt of a termination notice, Consultant shall (1) immediately discontinue all services affected, and (2) within five (5) days of the date of said termination notice, deliver or otherwise make available to City, copies (in both hard copy and electronic form, where applicable) of any data, design calculations, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Consultant in performing the Services required by this Agreement. Consultant shall be compensated on a pro-rata basis for work completed up until notice of termination.

- 8.8 Consultant shall maintain books and accounts of all payroll costs and expenses related to the Services. Such books shall be available at all reasonable times for examination by City at the office of Consultant.
- 8.9 This Agreement, including the Exhibits incorporated herein by reference, represents the entire agreement and understanding between the Parties as to the matters contained herein, and any prior negotiations, written proposals or oral agreements relating to such matters are superseded by this Agreement. Any amendment to this Agreement shall be in writing, approved by City and signed by City and Consultant.
- 8.10 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, duly authorized representatives of the City and Consultant have signed in confirmation of this Agreement.

City of Redlands

By: _____

Jon Harrison
Mayor

AEI-CASC Engineering, Inc.

By: _____

Richard J. Sidor, P.E.
Principal

Attest:

City Clerk, City of Redlands

EXHIBIT "A"

SCOPE OF SERVICES

Consultant shall review Water Quality Management Plans (WQMP) associated with new and redevelopment projects to verify compliance with the San Bernardino County Stormwater Program, "Model Water Quality Management Plan Guidance" and "Attachment A, WQMP Template". Consultant shall recommend approval of WQMPs to the City of Redlands upon determination that WQMPs comply with the requirements of the "Model Water Quality Management Plan Guidance."

Consultant shall maintain an accurate record of labor hours and expense spent in the review of WQMPs for each of the projects.

Consultant shall provide consultation to City upon request.

EXHIBIT "B"

City of Redlands Water Quality Management Plan Plan Check Services

2006 Rate Schedule

AET-CASC ENGINEERING HOURLY FEE RATE SCHEDULE

January 1, 2006

The following rates shall apply to services provided on a time-and-material basis. Rates reflected are hourly.

<u>General</u>		<u>Construction Management</u>	
President/Principal	\$175.00	Resident Engineer	\$128.00
Clerical/Miscellaneous Office Work	\$63.00	Assistant Resident Engineer	\$118.00
<u>Civil</u>		Senior Field Inspector	\$101.00
Engineering Director	\$145.00	Field Inspector I	\$86.00
Senior Project Manager/ Project Manager	\$137.00	Field Inspector 2	\$95.00
Assistant Project Manager/Senior Project Engineer	\$118.00	<u>Planning</u>	
Senior Designer/Project Engineer/Calculator	\$110.00	Planning Director	\$139.00
Design Engineer/Designer	\$105.00	Project Manager	\$126.00
CADD Designer	\$96.00	Senior Planner	\$118.00
Senior CADD Drafter	\$89.00	Planner	\$105.00
CADD Drafter	\$68.00	Assistant Planner	\$90.00
<u>Water Quality Services</u>		<u>Survey</u>	
Engineering Director	\$145.00	Three Person Survey/GPS Crew	\$255.00
Senior Project Manager/ Project Manager	\$137.00	Two Person Survey/GPS Crew	\$230.00
Assistant Project Manager/Senior Project Engineer	\$118.00	One Person Survey/GPS Crew	\$200.00
Scientist	\$112.00	Senior Project Manager/ Project Manager	\$137.00
Senior Field Inspector	\$101.00	Survey Analyst	\$110.00
Environmental Analyst I	\$86.00	<u>Other</u>	
Environmental Analyst II	\$95.00	Litigation Consultant/Expert Witness	\$352.00
Field Inspector I	\$86.00	Computer Time	\$32.00
Field Inspector II	\$95.00		
Two Person Sampling Crew	\$188.00		

REIMBURSABLE EXPENSES

The following expenses will be billed at cost plus 15%:

- Reproduction Services:** Includes blueprinting, copying, printing and plotting. In-house plots will be billed at \$6.00 per sheet for each client set and for a final in-house review set. The client is welcome to contract directly with an outside reprographic firm for those services not provided in-house.
- Rental Equipment and Fees:** Any equipment rental and any fees advanced by our firm including plan check and filing fees.
- Commercial Delivery Services:** Including Express Mail, Federal Express, UPS and independent courier services.
- In-House Pick-Up and Delivery Services:** These services provided by our firm will be reimbursed at \$44.00 per hour. In addition, mileage will be billed at \$.55 per mile with no markup.
- Travel Expenses:** Mileage to and from the job site will be billed at a rate of \$.55 per mile with no markup and travel time for survey crews will be billed at \$90.00 per hour, per man, one-way. Airfare will be billed at cost plus 15%.
- Per Diem:** Per diem for overnight stays will be billed at \$134 per day, per man.
- Waiver of Subrogation:** If the client requires a *Waiver of Subrogation for Workman's Compensation Insurance*, the client will be required to pay the additional insurance premium for this request. The approximate amount for the waiver is \$250.00.

NOTE: Invoicing will be submitted on a monthly, progressive cycle.

937 S. Via Lata, Suite 500
Colton, CA 92324

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