

AGREEMENT TO FURNISH CONSULTING SERVICES

FOR

ARBOR DRIVE STORM WATER DRAIN PROJECT
CONTRACT NO. 29-6208-2130

This AGREEMENT is made and entered into this 1st day of March, 1989,

by and between

City of Redlands Engineering
Services Department, herein-
after referred to as "OWNER."

and

ASL Consulting Engineers
hereinafter referred to as
"ENGINEER."

In consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties do hereby agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE ENGINEER

- 1.1 The OWNER hereby engages the ENGINEER and the ENGINEER hereby accepts the engagement to perform engineering services in connection with the Arbor Drive Storm Water Drain Project, Contract No. 29-6208-2130, hereinafter referred to as "PROJECT."
- 1.2 All work under this AGREEMENT shall be done in a professional manner, and ENGINEER represents that he is skilled in the professional expertise necessary to provide high quality services under this AGREEMENT.
- 1.3 The ENGINEER shall be responsible, to the level of competency presently maintained by other practicing professional engineers performing the same type of work for the professional and technical soundness, accuracy and adequacy of all studies, designs, drawings, specifications, and other work and materials furnished under this AGREEMENT.

ARTICLE 2 - SERVICES OF THE ENGINEER

- 2.1 The ENGINEER will perform the services in connection with the PROJECT as defined in Attachment A, Scope of Work.

ARTICLE 3 - RESPONSIBILITIES OF THE OWNER

- 3.1 The OWNER will place at the disposal of the ENGINEER all available information pertinent to the PROJECT, including previous reports and any other relative data.
- 3.2 The OWNER will provide access to and make all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform his work under this AGREEMENT.
- 3.3 The OWNER will provide all environmental assessments or impact reports required for this project.
- 3.4 The OWNER will designate in writing a person to act as the OWNER's representative with respect to the work to be performed under this AGREEMENT, such person to have complete authority to transmit instructions, receive information, interpret and define the OWNER'S policies and decisions with respect to materials, equipment, elements and systems pertinent to the work covered by this AGREEMENT.
- 3.5 The OWNER will provide standard mylar sheets.

ARTICLE 4 - PERIOD OF SERVICE

- 4.1 The ENGINEER shall proceed with the engineering services set forth in Article 2 in accordance with the schedule defined in Attachment B.
- 4.2 The ENGINEER shall proceed with the services under this AGREEMENT promptly and will prosecute them diligently.

ARTICLE 5 - PAYMENTS TO THE ENGINEER

- 5.1 For the services performed under Article 2, OWNER will pay the ENGINEER on a time and materials basis at the hourly rates shown in Attachment C, Rate Schedule. The manhour estimates and total budgets are shown on Attachment D, Fee Proposal.
- 5.2 Payment for additional services requested by the OWNER will be in accordance with a separately negotiated fee or in accordance with the hourly fees shown in Attachment C, Rate Schedule.
- 5.3 ENGINEER agrees that at the point 75-percent of budgeted costs have been expended for each scope of the PROJECT, the ENGINEER will notify the OWNER in writing, including a brief report on job status, percent complete, analysis of budget, and envisioned expenses to complete the contractual effort. Budgets shall not be exceeded except if previously approved by OWNER.

- 5.4 The ENGINEER shall bill the OWNER within ten days following the close of each month by submitting an invoice indicating the work performed, who performed the work, and the detailed cost of all work including backup material, if requested.

Payments by OWNER to ENGINEER shall be made within 30 days after receipt and approval of ENGINEER'S invoice, by warrant payable to ASL Consulting Engineers.

All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

TO OWNER:	CITY OF REDLANDS Engineering Services Dept. P. O. Box 3005 30 Cajon Street Redlands CA 92373
TO ENGINEER:	ASL Consulting Engineers 10350 Commerce Center Drive Suite 180 Rancho Cucamonga CA 91730

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given, by giving notice pursuant to this paragraph.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

- 6.1 ENGINEER shall maintain worker's compensation insurance and, in addition shall maintain insurance to protect OWNER from claims for damage due to bodily injury, personal injury, or death and claims for injury to or destruction of tangible property while performing the services covered by this AGREEMENT. Said public liability and property damage insurance shall be in a minimum combined single limit of \$1,000,000 per occurrence. The OWNER shall be named as additional insured on insurance coverage for public liability and property damage. The ENGINEER shall provide OWNER with a certificate evidencing such insurance coverage.

- 6.2 ENGINEER agrees to maintain professional liability insurance pursuant to this paragraph to indemnify and hold harmless OWNER from negligent acts, errors or omissions of a professional nature. The total aggregate of ENGINEER'S professional liability insurance coverage shall not exceed \$50,000 or ENGINEER'S total fee for the services rendered on this PROJECT, whichever is lesser.
- 6.3 ENGINEER agrees to indemnify, hold harmless and pay for cost of defense for OWNER and their officers, agents and employees from and against claims, loss, damage, charge or expense, to which they or any of them may be put or subjected to arising out of or resulting from any negligent acts, errors, omissions, or failure to act on the part of the ENGINEER and/or his employees, and his contractors, in the performance of the services described in this AGREEMENT.

ARTICLE 7 - GENERAL CONSIDERATIONS

- 7.1 In the event of any legal action brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs, expenses, including attorney's fees, as may be set by the Court.
- 7.2 The ENGINEER shall not sublet or assign any of the work covered by this AGREEMENT, except with the prior written approval of the OWNER and in strict compliance with the terms, provisions, and conditions of the CONTRACT.
- 7.3 The key ENGINEER'S personnel proposed for this project are as follows:

William Bayne, P.E., Project Manager
William D. Lewis, P.E., Principal-In-Charge

ENGINEER agrees that these key people will be made available and assigned to the OWNER'S project, and that they will not be replaced without concurrence from the OWNER.

- 7.4 It is understood and agreed by and between the parties that all documents, records, drawings, designs and specifications, cost estimates, and other project documents developed by the ENGINEER pursuant to this AGREEMENT shall become the property of OWNER and shall be delivered to OWNER if and when requested upon completion of services. Any reuse of such documents for other projects and any use of incomplete documents will be at the OWNER's sole risk.

- 7.5 ENGINEER is for all purposes an independent contractor. All qualified personnel provided by ENGINEER pursuant to the provisions of this AGREEMENT are to be employed by ENGINEER for his account only, and in no event shall ENGINEER or any personnel retained by him be deemed to have been employed by the OWNER or engaged by the OWNER for the account of or on behalf of the OWNER.
- 7.6 Unless earlier terminated as stipulated below, this agreement shall terminate upon completion and acceptance by the OWNER of all work approved for performance under Article 2 of this AGREEMENT.
- 7.7 This AGREEMENT may be terminated in writing by either party in the event of failure by the other party to fulfill its obligations under this AGREEMENT through no fault of the terminating party: PROVIDING, that no such termination may be effected unless the other party is given (1) not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
- 7.8 If this AGREEMENT is terminated by the OWNER for reasons of default by the ENGINEER, an adjustment to ENGINEER'S compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed services, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to the extent of any additional costs to the OWNER occasioned by the ENGINEER'S default. If terminations for default is effected by the ENGINEER, the adjustment in compensation shall provide for payment to the ENGINEER to include a reasonable profit for services rendered and reimbursement for expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm and approved by OWNER prior to the termination.
- 7.9 Upon receipt of a termination notice, the ENGINEER shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER, copies of data, design calculations, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the ENGINEER in performing this AGREEMENT.

7.10 ENGINEER shall maintain books and accounts of all project related payroll costs and all expenses and incidental expense. Books shall be available at all reasonable times for examination by the OWNER at the office of the ENGINEER.

7.11 This AGREEMENT, including attachments incorporated herein by reference, represents the entire AGREEMENT and understanding between the parties and any negotiations, proposals or oral agreements are intended to be integrated herein and to be superseded by this written AGREEMENT. Any supplement or amendment to this AGREEMENT to be effective shall be in writing and signed by the OWNER and ENGINEER.

7.12 This AGREEMENT is to be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, duly authorized representatives of the parties have signed in confirmation of this AGREEMENT.

CITY OF REDLANDS

ASL CONSULTING ENGINEERS

By Carle Desmet
Mayor

By John D. Lewis
Principal-in-Charge

ATTEST Juanita Payer
City Clerk

Date February 21, 1989

ATTACHMENT A

SCOPE OF WORK

Task 1 - Data Collection

1. Meet with the OWNER to review special instructions or design constraints and to summarize ENGINEER'S understanding of the PROJECT requirements. A brief memorandum will be prepared to summarize the items discussed during the meeting and to confirm the schedule of meetings and milestones for the project.
2. Utilities will be contacted to obtain information on the locations and depths of their facilities, as well as masterplanned improvements.
3. Available mapping will be reviewed to determine right-of-way and monumentation information.
4. A field survey will be made to determine precise center line control, obtain cross-sections and topographic information, and to set control points for the aerial survey. Typical street cross-sections will be taken to assist in determining the street capacity for the catch basin and storm drain design.
5. Aerial topographic mapping will be obtained for the proposed storm drain from the proposed outlet to upstream of the existing bubbler. Mapping will be furnished on a CAD disk and will be plotted at a 1" = 40' scale for use as the a base for the storm drain design and contract plans as well as for a display presentation to the public.
6. Existing plans will be reviewed for the existing catch basins to determine if the existing basins can be utilized.
7. Plans of the existing 30-inch drain will be reviewed to determine overall capacity.
8. The ENGINEER will walk the project to note constraints or conflicts not appearing on any of the field information. Sub-areas which drain to Arbor Drive were noted on the site review visit and may need to be addressed.

Task 2 - Preliminary Engineering

1. Existing utilities and rights-of-way will be plotted on the base sheets. Prints will be sent to all affected utility companies for conformation of facility locations.

2. Plan and profile base sheets will be prepared with screened topographic information.
3. A hydrology study will be performed to establish design flows. Catch basin hydrology calculations will be performed to locate catch basins and laterals at street intersections. A hydrology map will be prepared to show the design flows. The map and calculations will be submitted for OWNER review.
4. Storm drain sizes will be determined based on Hydraulic calculations.
 - a. The hydraulic grade line (H.G.L.) control elevation will be the pipe soffit at the channel outlet.
 - b. The storm drain will be at a very flat slope along Arbor Drive. To minimize the storm drain size, the H.G.L. may be at or above the street surface.
 - c. The H.G.L. at the intersection catch basins will approximately parallel the storm drain laterals but will be below the street surface.
 - d. Previous experience suggests that the top of the storm drain will be 5 to 10 feet below the street grade to avoid utility conflicts. The H.G.L. will generally be below the street surface to accept flows from proposed catch basins.
5. The preliminary drawings will include the following:
 - a. The proposed storm drain alignment, profiles, and existing utility locations.
 - b. Proposed outlet location to the discharge channel.
 - c. Potential utility conflicts and conflicts with private property improvements.
6. The preliminary plans and hydrology/hydraulic calculations will be submitted for OWNER review and comment.
7. Utility companies will be notified of potential conflicts, and to initiate conflict mitigation and pot-holing requests for verification.

Task 3 - Final Engineering

1. A preliminary plan review meeting will be held with OWNER prior to starting final design.

2. The final project drawings will be prepared. Some of the items to be included are listed below:
 - a. OWNER and utility review comments will be incorporated;
 - b. structural calculations and details will be prepared;
 - c. catch basins, junction, and transition structures will be located and profiles drawn;
 - d. inlet connections, the outlet structure and energy dissipater will be designed;
 - e. miscellaneous details will be prepared;
3. A schematic traffic control plan will be prepared per Caltrans requirements.
4. Contract documents will be prepared for the project. The documents will include the proposal and Special Provisions.
5. A Construction Cost Estimate will be prepared based on contract plan quantities and current unit prices.
6. The special provisions, construction cost estimate, bid package, and final design drawings, will be submitted to the OWNER for plan check.
7. Final utility notices will be submitted to affected utilities.
8. The final drawings and bid package will be revised to reflect plan check review comments.
9. The approved final bid package will be submitted for contract bidding. Original plans, field notes, calculations, correspondence, and other relevant materials will be turned over to the OWNER.

Task 4 - Public Involvement

1. A DESIGN DEVELOPMENT MEETING will be held to provide property owners an opportunity to provide input prior to the preparation of the preliminary plans. A strip map will be used for presentation purposes.
2. AN INFORMAL PROJECT STATUS MEETING will be held to provide property owners and interested parties with the opportunity to review the project plans. The meeting would be held when the proposed improvements are well defined.

ASSUMPTIONS

1. A new soils report is not required to determine the pavement section and trench excavation and backfill requirements.
2. Affected utilities will perform the potholing of facilities. ENGINEER will coordinate the effort.
3. The affected utilities will prepare relocation designs for their own facilities.
4. The OWNER will provide printing and packaging of the bid documents, advertising, and award the contract.

ATTACHMENT B

TIME OF COMPLETION

Notice to Proceed	3-15-89
Task 1 - DATA COLLECTION	4-14-89
Task 2 - PRELIMINARY ENGINEERING	4-28-89
First Public Meeting	4-25-89
Task 3 - FINAL ENGINEERING	5-24-89
Second Public Meeting	5-17-89
Bid Package For Advertisement	5-22-89
Bid Opening	6-19-89

ATTACHMENT C
1989
HOURLY CHARGE RATE AND
EXPENSE REIMBURSEMENT SCHEDULE

Senior Principal	\$125.00
Principal in Charge of Project	\$100.00
Managing Engineer/Project Manager	\$ 90.00
Project Engineer/Project Coordinator.	\$ 80.00
Traffic Engineer.	\$ 75.00
Transportation Engineer	\$ 75.00
Survey Coordinator	\$ 65.00
Senior Registered Engineer.	\$ 72.00
Registered Engineer	\$ 66.00
Engineer Level II	\$ 60.00
Engineer Level I.	\$ 55.00
Senior Designer	\$ 64.00
Designer	\$ 52.00
Designer/Draftsperson	\$ 50.00
Construction Inspector	\$ 48.00
Draftsperson	\$ 48.00
CAD Operator	\$ 65.00
Junior Engineer/Designer/Draftsperson	\$ 36.00
Wordprocessor	\$ 35.00
Technician	\$ 25.00
Two-Man Survey Party	\$125.00
Survey Travel Time	\$ 60.00
Survey Vehicle Allowance (per day)	\$ 30.00
Three-Man Survey Party Rates Quoted on Request	

Reproduction, special photography, printing and any other services performed by subcontractor, subject to prior approval by the Client, will be billed at cost plus 15%.

Reimbursable In-house Costs:

Photo Copies	\$0.20/Each
Blueprints	\$0.30/sq.ft.
Postage, Delivery Service, Express Mail	At Cost
Out of Area Telephone Calls	At Cost
Computer Time	\$20.00/hour

Vehicle mileage, between engineer's office and project site and/or Client offices, will be billed at \$0.30 per mile.

Court Appearance, Expert Witness Testimony,
Depositions, and Preparation of Testimony \$150.00*

*Minimum \$600.00 for half day plus expenses

NOTE: All rates are effective through January 1, 1990, except survey rates which are effective to August 1, 1989.

These rates are based on the attached Exhibit B - Standard Conditions of Service. Special insurance requirements carry a fee surcharge.

EXHIBIT B
STANDARD CONDITIONS OF SERVICE

APPLICABILITY

In the absence of any formal agreement between Client and ASL Consulting Engineers (ASL), the following standard conditions shall govern the professional services provided by ASL. The standard conditions apply to all letter proposal-agreements and any contracts incorporating same.

STANDARD OF CARE

Professional services performed by ASL under this agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, expressed or implied is made.

All field condition data obtained during the investigation phase and/or design phase are subject to confirmation of conditions encountered before or during construction. Underground utilities, connections to utilities, potential underground obstructions shall be exposed to verify their horizontal as well as vertical position before proceeding with construction to allow for adjustments.

INSURANCE

ASL represents and warrants that it and its agents, staff and consultants employed by it are protected by worker's compensation insurance and that ASL has coverage under public liability and property damage insurance policies with an aggregate limit of \$1,000,000 per occurrence. Costs of special insurance required by the Client including, but not limited to, an increase in policy limits and naming additional insured parties on policies of ASL will be charged at cost plus 10%. Certificates for all such policies of insurance will be provided to Client upon written request.

Within the limits and conditions of such insurance, ASL agrees to indemnify and save Client harmless from and against any loss, damage, or liability arising from any negligent acts by ASL, its agents, and staff. ASL shall not be responsible for any loss, damage or liability arising from any acts by Client, its agents, staff, and other consultants employed by it.

INVOICES

ASL will submit invoices to Client as stated in the proposal or periodically and a final invoice upon completion of our services. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. Client agrees to pay a finance charge of one and one-half percent (1-1/2%) per month, or the maximum rate allowed by law, on past due account.

In the event that a dispute should arise relating to the collection of fees, and should these actions result in litigation, it is agreed that the prevailing party shall be entitled to recover all reasonable costs incurred in the defense or enforcement of the claim including staff time, court costs, attorney fees, and other claim-related expenses.

LIMITATION OF LIABILITY

The Client agrees to limit ASL's liability to the Client, owner and all construction contractors and subcontractors on the project arising from ASL's negligent professional acts, errors or omissions, such that the total aggregate liability of ASL to all those named shall not exceed \$50,000 or ASL's total fee for the services rendered on this project, whichever is lesser. The Client further agrees to require the contractor and his subcontractors to execute an identical limitation of ASL's liability for damages suffered by the negligent professional acts, errors or omissions.

PROFESSIONAL LIABILITY

If the Owner/Client requires evidence of professional liability insurance, ASL will charge for such coverage according to the following schedule for each project:

\$ 250,000	--	4% of the fee
\$ 500,000	--	6% of the fee
\$ 750,000	--	8% of the fee
\$ 1,000,000	--	10% of the fee

Straight line interpolation is to be used for coverage falling in between the above figures. Certificates of insurance for professional liability coverage will be issued at \$120.00 per certificate.

OWNERSHIP OF WORK PRODUCT

All reports, design, drawings, field data and notes, laboratory test data, calculations, estimates and other documents prepared by ASL, as instruments of service, shall remain the property of ASL. Upon request in writing, ASL will provide reproducible of drawings for Client use on the designated project.

Client agrees that all reports and other work furnished to the Client or its agents, which are not paid for, will be returned upon demand and will not be used by the Client for any purposes whatsoever.

PROJECT SIGNS

Client agrees to include ASL Consulting Engineers as the Civil Engineer on any promotional signs placed on the project site. If the Client does not place any promotional signs on the site, Client agrees to allow ASL Consulting Engineers to place their own sign on the site. ASL Consulting Engineers agrees to conform to all applicable local sign ordinances.

ATTACHMENT D

FEE PROPOSAL

MANHOUR BREAKDOWN

Task 1 - Data Collection

Costs

Managing Engineer	\$ 90.00 X 4	hours	\$ 360.00
Project Engineer	\$ 80.00 X 2	hours	160.00
Designer	\$ 64.00 X 9	hours	576.00
Draftsperson	\$ 48.00 x 8	hours	384.00
Wordprocessor	\$ 35.00 x 1	hours	35.00
Two-man Survey Party	\$125.00 x 16	hours	2,000.00
Survey Vehicle Allowance	\$ 60.00 x 2	days	120.00
Materials and Supplies			25.00
Inland Aerial Surveys, Inc.			1,560.00

TOTAL TASK 1 \$ 5,220.00

Task 2 - Preliminary Engineering

Managing Engineer	\$ 90.00 x 8	hours	\$ 720.00
Project Engineer	\$ 80.00 x 16	hours	1,280.00
Designer	\$ 64.00 x 24	hours	1,536.00
Draftsperson	\$ 48.00 x 40	hours	1,920.00
Wordprocessor	\$ 35.00 x 2	hours	35.00
Materials and Supplies			169.00

TOTAL TASK 2 \$ 5,660.00

Task 3 - Final Engineering

Managing Engineer	\$ 90.00 x 8	hours	\$ 720.00
Project Engineer	\$ 80.00 x 2	hours	160.00
Designer	\$ 64.00 x 40	hours	2,560.00
Draftsperson	\$ 48.00 x 64	hours	3,072.00
Wordprocessor	\$ 35.00 x 12	hours	420.00
Materials and Supplies			118.00

TOTAL TASK 3 \$ 7,050.00

Task 4 - Public Involvement

Managing Engineer	\$ 90.00 x 6	hours	\$ 540.00
Draftsperson	\$ 48.00 x 4	hours	192.00
Wordprocessor	\$ 35.00 x 1	hour	35.00
Materials and Supplies			3.00

TOTAL TASK 4 \$ 770.00