

AGREEMENT TO FURNISH ENGINEERING SERVICES

FOR THE SITING AND DESIGN

OF THE

CALIFORNIA STREET LANDFILL MONITORING WELLS - 1991

This AGREEMENT is made and entered into as of this 28th day of March, 1991.

by and between

City of Redlands Public Works
Department hereinafter referred to as
"OWNER"

and

Lee & Ro 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 Siting and Design of the California Street Landfill Monitoring Wells - 1991, hereinafter referred to as the Project.
- 1.2 All services under this AGREEMENT shall be done in a professional manner, and ENGINEER represents that the firm employs those with the demonstrated skill and 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 providing the same type of services, for the professional and technical soundness, accuracy and adequacy of all reports, designs, drawings, specifications, and other services and materials furnished under this AGREEMENT.

ARTICLE 2 - SERVICES OF THE ENGINEER

- 2.1 The **ENGINEER** shall perform the services required for the Project as defined in the Proposal Section 3 - Scope of Work.
- 2.2 The following additional services may be provided by the **ENGINEER** when requested and approved by the OWNER and agreed to by the Engineer:

1. Additional copies of plans and specifications.
 2. Miscellaneous services not specified elsewhere in the Agreement.
- 2.3 The ENGINEER will prepare an environmental initial study for the project. The initial study will include an analysis of the environmental impacts of the proposed project as well as identify the mitigation measures necessary to mitigate adverse impacts to a level of non-significance.

The ENGINEER will present the initial study to the City's Environmental Review Committee (ERC). Following the ERC hearing, the initial study will be revised to include comments from said hearing. A mitigation monitoring plan will then be developed.

The scope of environmental services includes all services necessary leading to a negative declaration or mitigated negative declaration.

ARTICLE 3 - RESPONSIBILITIES OF THE OWNER

- 3.1 The OWNER shall place at the disposal of the ENGINEER all available information pertinent to the Project, including previous reports and any other data relative to the Project.
- 3.2 The OWNER shall 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 services under this AGREEMENT.
- 3.3 The OWNER shall provide all environmental assessments or impact reports required for this project and not otherwise specifically required to be provided by the ENGINEER.
- 3.4 The OWNER shall designate in writing a person to act as the OWNER'S representative with respect to the services 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 services covered by this AGREEMENT.

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 the Proposal, Section 4 - Project Schedule.
- 4.2 The ENGINEER shall proceed with the services under this AGREEMENT promptly and shall prosecute them diligently.

ARTICLE 5 - PAYMENTS TO THE ENGINEER

- 5.1 For the services performed under Article 2, Owner shall pay the ENGINEER in accordance with the Fee Proposal. The upset limits shall be \$49,563.50 for the services.
- 5.2 Payment for additional services requested by the OWNER per Article 2.2 shall be in accordance with a separately negotiated fee or in accordance with the hourly fees shown in the Fee Proposal.
- 5.3 ENGINEER agrees that at the point 75 percent of budgeted costs have been expended for each scope 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. The budget shall not be exceeded except if previously approved by OWNER.
- 5.4 The ENGINEER shall bill the OWNER monthly. An invoice shall be submitted indicating the work performed, who performed the work, the job category of those performing the work, identification of outside services and reimbursable expenses, and backup material, when requested.

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

- 5.5 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 shall be addressed as follows:

TO OWNER: City of Redlands
PUBLIC WORKS DEPARTMENT - UTILITIES DIVISION
P. O. Box 3005
2 E. Citrus Avenue
Redlands CA 92373

TO ENGINEER: Lee and Ro Consulting Engineers
604 E. Huntington Dr.
Monrovia CA 91017
Attn: Chung Kim

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 a primary 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 protect OWNER from negligent acts, errors or omissions of a professional nature; the total aggregate of ENGINEER'S professional liability insurance coverage shall be a minimum of \$1,000,000.
- 6.3 ENGINEER agrees to indemnify, hold harmless and defend OWNER and any and all of their elected officials, officers, agents, engineers, and employees from and against all 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 willful misconduct or negligent act or actions, omission or failure to act on the part of the ENGINEER, his contractors, his suppliers, anyone directly or indirectly employed by any of them or anyone for whose acts or omissions any of them may be liable 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 services 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 AGREEMENT.
- 7.3 The key ENGINEER'S personnel proposed for the Project are listed in the Proposal, Section 1, Project Team.

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

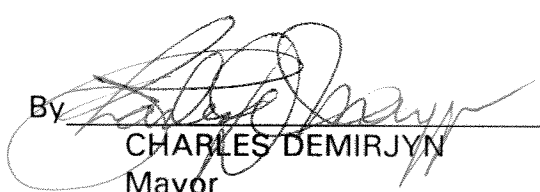
- 7.4 It is understood and agreed by and between the parties that all documents, records, drawings, designs and specifications, cost estimates, and other project documents developed by the ENGINEER pursuant to this AGREEMENT shall become the property of OWNER and shall be delivered to OWNER upon completion of services or upon demand. Any reuse of such documents for other projects and any use of incomplete documents shall 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 services 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 termination 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 services under 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 shall 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

LEE & RO CONSULTING ENGINEERS

By 

CHARLES DEMIRJYN
Mayor

By 

M. STEVE RO
President

ATTEST:



City Clerk, City of Redlands