

AGREEMENT TO FURNISH ENGINEERING SERVICES
FOR WATER DISTRIBUTION HYDRAULIC MODEL UPDATE AND SYSTEM ANALYSIS

This Agreement is made and entered into this 15th day of November, 2005, by and between the City of Redlands, a municipal corporation (hereinafter "City") and Wildermuth Environmental, hereinafter ("Consultant").

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

ARTICLE 1 - ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant, and Consultant hereby accepts the engagement, to perform professional consulting services ("Services") for Basin Modeling Services for City of Redlands Wastewater Effluent Analysis ("Project").
- 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 high quality Services for the Project at the level of competency presently maintained by other practicing professional engineers in the industry providing like and similar types of services.

ARTICLE 2 - SERVICES OF CONSULTANT

- 2.1 The specific Services which Consultant shall perform are more particularly described in Attachment "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 rules, laws and regulations in the performance of this Agreement including, but not limited to, all applicable Labor Code and prevailing wage laws.

ARTICLE 3 - RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in its possession that is pertinent to the performance of Consultant's Services.
- 3.2 City will provide access to and make provisions for Consultant to enter upon City-owned property or right-of-way as required by Consultant to perform the Services.
- 3.3 City designates Greg Gage, Project Manager, 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 set forth in Attachment "B", entitled "Project Schedule".

ARTICLE 5 - PAYMENTS TO THE CONSULTANT AND NOTICE

- 5.1 The total compensation for Consultant's performance of the Services shall not exceed the amount of \$24,900. City shall pay Consultant on a time and materials basis up to the not to exceed amount, in accordance with Attachment "C", entitled "Project Costs" based on the hourly rates shown in Attachment "D", entitled "Rate Schedule".
- 5.2 Consultant shall bill City within ten days following the close of each month by submitting an invoice indicating the Services performed, who performed the Services, indirect costs, and the detailed cost of all Services including backup documentation. Payments by City to Consultant shall be made within 30 days after receipt and approval of Consultant's invoice, by warrant payable to Consultant.
- 5.3 All contractual 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:

City

Greg Gage
Municipal Utilities Dept.
35 Cajon Street
P. O. Box 3005
Redlands, CA 92373

Consultant

Mark Wildermuth
Wildermuth Environmental
23692 Birtcher Drive
Lake Forest, CA 92630-1790

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. In all other instances, notices, bill 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 Consultant's Insurance to be Primary

All insurance required by this Agreement is to be maintained by Consultant for the duration of this Project and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by the 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

(30) days prior written notice to City.

6.2 Workers' Compensation and Employer's Liability

- A. Consultant shall secure and maintain Worker Compensation and Employer's Liability insurance throughout the duration of this Agreement in amounts which meet statutory requirements with an insurance carrier acceptable to the City.
- B. Consultant expressly waives all rights to subrogation against the City, its officers, 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 Workers' Compensation claim brought by or on behalf of any employee of Consultant. This shall not apply to any damage resulting from the sole 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 Comprehensive General Liability Insurance. Consultant shall secure and maintain in force throughout the duration of the 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 Business Auto Liability Insurance. Consultant shall have business auto liability coverage, with minimum limits of one million (\$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 on the project, hired and non-owned vehicles, and employee non-ownership vehicles. Consultant shall obtain an endorsement that the City shall be named as an additional insured.

6.5 Assignment and Insurance Requirements. Consultant is expressly prohibited from subletting or assigning any of the services covered by this Agreement without the express written consent of City. In the event of mutual agreement between parties to sublet a portion of the Services, the Consultant will add the subcontractor as an additional insured and provide the City with the insurance endorsements prior to any work being performed by the subcontractor. Assignment does not include printing or other customary reimbursable expenses that may be provided in this Agreement.

6.6 Hold Harmless and Indemnification. Consultant shall defend, indemnify, and hold harmless City and its elected officials, employees and agents from and against negligent actions, claims, demands, lawsuits, losses and liability for damages to persons or property, including costs and attorney fees, that may be asserted or claimed by any person, firm, entity,

C25

corporation, political subdivision or other organization arising out of or in connection with Consultant's negligent or 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 officers, employees or agents.

ARTICLE 7 - GENERAL CONSIDERATIONS

7.1 The sole remedy for any liabilities or claims between the parties is binding arbitration at the American Arbitration Association in Orange County, California with one arbitrator mutually agreed by the parties. The prevailing party shall be awarded the fees of the arbitrator as well as its attorneys' fees, expert fees and costs.

7.2 Consultant shall not assign any of the Services required by this Agreement, except with the prior written approval of City and in strict compliance with the terms, provisions and conditions of this Agreement.

7.3 Consultant's key personnel for the Project are:

Project Manager: Kristal Davis
Project Scientist: Dr. Wenbin Wang
Principal in Charge: Mark Wildermuth

Consultant agrees that the key personnel shall be made available and assigned to the Project, and that they shall not be replaced without concurrence from City.

7.4 All documents, records, drawings, designs, costs estimates, electronic data files and databases and other documents developed by the Consultant pursuant to this Agreement and any copyright interest in said above described documents, shall remain the property of the Consultant. The Consultant shall license the use of portions of these documents for the sole use of the City at no additional cost. Any use of such documents and any use of incomplete documents will be at City's sole risk.

7.5 Consultant is for all purposes an independent contractor. 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.

7.6 Unless earlier terminated, as provided for below, this Agreement shall terminate upon completion and acceptance by City of the Services.

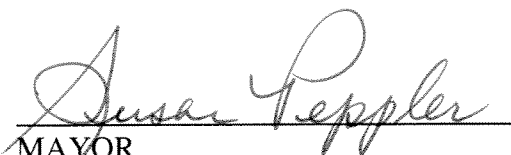
- 7.7 This Agreement may be terminated by the City, without cause, by providing ten (10) days prior written notice to the Consultant (delivered by certified mail, return receipt requested) of intent to terminate.
- 7.8 Upon receipt of a termination notice, Consultant shall (1) promptly discontinue all services, and (2) deliver or otherwise make available to City, copies 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.
- 7.9 This Agreement, including the attachments incorporated herein by reference, represents the entire agreement and understanding between the parties and any prior negotiations, proposals or oral agreements are superseded by this written Agreement. Any amendment to this Agreement, to be effective, shall be in writing and approved by the City Council of City and signed by City and Consultant.
- 7.10 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.

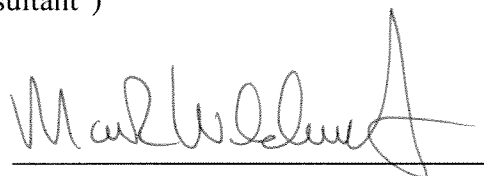
City of Redlands
("City")

Wildermuth Environmental
("Consultant")

By:

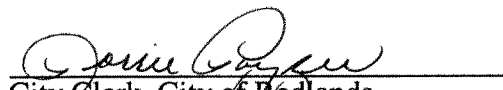

MAYOR

By:


Mark Wildermuth

ATTEST:

By:


City Clerk, City of Redlands

ATTACHMENT A

SCOPE OF SERVICES

Task 1 – Estimate the TDS and Nitrogen Impacts to Local Groundwater Quality

- 1.1 Develop Flow and Transport Model
- 1.2 Initial Water Flow Model and Model set up
- 1.3 Three Scenario Flow Modeling for Future 25 Years for TDS and NO₃
- 1.4 Three Scenario MT3D Transport Modeling for Future 25 Years for TDS and NO₃
- 1.5 Plot the Results in ArcGIS

Task 2 – Prepare Completion Report

- 2.1 Prepare Draft Report
- 2.2 Prepare Final Report

Task 3 – Meetings with City

ATTACHMENT B

PROJECT SCHEDULE

Task/Subtask/Description	-----Total Labor-----				Estimated Start Date	Estimated Completion Date
	Principal	Senior	Staff	Total Person Days		
Task 1 Estimate the TDS and Nitrogen Impacts to Local Groundwater Quality						
1.1 Develop Flow and Transport Model						
1.2 Initial Water Flow Model and Model set up	0.25	0.5		0.75	11/29/2005	11/30/2005
1.3 Three Scenario Flow Modeling for future 25 Years for TDS and NO3	0.25	7		7.25	11/31/2005	12/9/2005
1.4 Three Scenario MT3D transport Modeling for future 25 Years for TDS and NO3		7		7	12./12/2005	12/20/2005
1.5 Plot the results in ArcGIS			1	1	12/27/2005	12/29/2005
Task 2 Prepare Completion Report						
2.1 Prepare Draft Report			3	3	1/4/2006	1/12/2006
2.3 Prepare Final Report			1	1	1/24/2006	1/26/2006
Task 3 Meetings						
3.1 Meetings with City	1	1	1	3		

ATTACHMENT C

PROJECT COSTS

The work presented in the Scope of Services (Exhibit A) will be completed for the not to exceed amount of \$24,900 based upon the table below, and in accordance with Exhibit D – “Rate Schedule”.

Description	Hours	Labor	Expenses	Total
Task 1 - Estimate the TDS and Nitrogen Impacts to Local Groundwater Quality	128	\$17,200		\$17,200
Task 2 - Prepare Completion Report	32	\$ 3,520	\$700	\$ 4,220
Task 3 – Meetings with City	24	\$ 3,280	\$200	\$3,480
Total	184	\$24,000	\$900	\$24,900

ATTACHMENT D

RATE SCHEDULE

Category		Hourly Rate (\$/hr)
001	Principal Engineer/Scientist I	\$165
002	Principal Engineer/Scientist II	\$160
003	Associate Engineer/Scientist	\$155
004	Senior Engineer/Scientist I	\$150
005	Senior Engineer/Scientist II	\$135
006	Staff Engineer/Scientist I	\$110
	Staff Engineer/Scientist II	\$85
	Staff Engineer/Scientist III	\$75
007	Drafter/Illustrator	\$70
008	Administrative Assistant	\$65
009	Clerk	\$50
010	GIS Specialist	\$110
011	Data Entry Specialist	\$55
012	DB Manager/IT Specialist I	\$135
	DB Manager/IT Specialist II	\$100
	DB Manager/IT Specialist III	\$75
013	Field Technician	\$55
Mileage at \$0.405 per mile		
Other direct costs at actual cost plus 10 percent		