

AGREEMENT TO FURNISH DESIGN ENGINEERING SERVICES FOR THE PREPARATION OF ENVIRONMENTAL DOCUMENTATION FOR THE ORANGE STREET WELLFIELD

This Agreement is made and entered into this 15th day of October 2002 by and between the City of Redlands, a municipal corporation (hereinafter "City") and Tom Dodson and Associates, (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 services ("Services") for preparation of necessary environmental documentation for the Orange Street Wellfield for the City of Redlands, California.
- 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 Consultants in the industry providing 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.

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 rights-of-way as required by Consultant to perform the Services.

- 3.3 City designates Douglas Headrick as 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 diligent manner and in accordance with the schedule set forth in Attachment "B", entitled "Project Schedule".

ARTICLE 5 - PAYMENTS TO THE CONSULTANT

- 5.1 The total compensation for Consultant's performance of Services shall not exceed the amount of \$20,000. City shall pay Consultant on a time and materials basis up to the not to exceed amount, in accordance with Attachment "C", entitled "Project Fee", 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

Douglas Headrick, PE
Municipal Utilities Department
35 Cajon Street
P. O. Box 3005
Redlands, CA 92373

Consultant

Bill Gatlin, Vice President
Tom Dodson & Associates
2150 N. Arrowhead Avenue
San Bernardino, CA 92405

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 endorsements evidencing such insurance prior to commencement of work. All insurance policies shall include a provision prohibiting cancellation of the policy except upon thirty (30) days prior written notice to City.

6.2 Worker's Compensation and Employer's Liability

- 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 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 any claim brought by or on behalf of any employee of Consultant. This waiver is mutually negotiated by the parties. 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 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 Business Auto Liability Insurance. Consultant shall have business auto liability coverage, with minimum limits of 1 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 City shall be named as an additional insured.

- 6.5 Professional Liability Insurance. 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 claim made.
- 6.6 Hold Harmless and Indemnification. Contractor 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 attorney 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 Contractor'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 sole negligence or intentionally wrongful acts of City, its officers, employees or agents.
- 6.7 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 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.

ARTICLE 7 - GENERAL CONSIDERATIONS

- 7.1 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.
- 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: Bill Gatlin

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 Project documents developed by the Consultant pursuant to this Agreement 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 for other projects 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 affected, and (2) 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.
- 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 Agreement. Any amendment to this Agreement shall be in writing, approved by the City Council of City and signed by City and Consultant.

Attachment A

Scope of Services

Task 1: Prepare Project Description

Working with City staff and its consultants, TDA will prepare a project description for the proposed project. We anticipate at least two meetings to obtain data on the project and a site reconnaissance. Thereafter, TDA will finalize the project description and submit a draft for City review.

Task 2: Prepare Technical Assessments

Based on data provided to TDA, it appears that the proposed treatment facilities will be located within the confines of the existing CEMEX plant and existing dedicated roads. No undisturbed native habitat appears to be affected by the project.

Using technical data supplied by the City, TDA will prepare the Initial Study using the CEQA Guidelines standard checklist format. Substantiation for all conclusions reached will be provided in the document. Mitigation measures will be provided where necessary to reduce potential project-related impacts to the greatest extent feasible.

TDA will provide the City with a screencheck draft of the completed Initial Study for review and comment. Agreed upon revisions to the Initial Study will be made and the document will be circulated for public review and comment. Usually the City Planning Department, handles circulation of the Initial Study and filing the necessary notices. Due to its present workload, the Planning Department may require assistance. This proposal includes TDA assisting with the public noticing requirements of CEQA. Based on the nature of this project, the Initial Study will be circulated to the State Clearinghouse for a 30-day review and comment period.

Task 3: Process the Negative Declaration and Issue the Notice of Determination

Unless some issue(s) which is/are not known at this time arises, we feel a Negative Declaration will be the appropriate environmental determination for the project. TDA will assist the City with preparation of responses to any comments received during the public review period. TDA will also assist the City with preparation and processing of the Mitigation Monitoring and Reporting Program, Negative Declaration, and the Notice of Determination, if a Negative Declaration is adopted for the project.

Attachment B

Estimated Schedule

1. TDA will meet the City staff to discuss the project, collect technical data, including identification of all responsible agencies and visit the project site and pipe alignments within one week of receipt of authorization to proceed.
2. TDA will submit a screencheck draft of the Initial Study to the City for review within 4 weeks of receipt of all technical data needed to prepare the Initial Study.
3. TDA will provide a finalized Initial Study for circulation for public review and comment within one week of receipt of City comments on the screencheck Initial Study.

TDA will also assist the City with circulation of the document for the 30-day public review and comment period and preparation of the required notifications on an as-needed basis.
4. TDA will assist with preparation of the Mitigation Monitoring and Reporting Program, responses to comments, Negative Declaration, Notice of Determination during the 30-day public review and comment period.
5. TDA will assist the processing of the CEQA document with the decision makers on a as-requested basis.

Attachment C

Fee

TDA will provide the services identified in Tasks 1 through 3 on a time and expense basis for a fee of \$20,000.

Attachment D

Rates

TDA will invoice the work completed on a time and expense basis at the following rates:

Environmental Specialist	\$125.00 / hour
Regulatory Specialist	\$95.00 / hour
Env. Specialist II	\$80.00 / hour
Ecologist / Biologist I	\$80.00 / hour
Admin / WP / Graphics	\$40.00 / hour

Other Direct Costs: All other direct costs (travel, supplies, printing, sub-contracts, etc.) are charged at actual cost plus a 10 percent management/handling charge. Mileage will be billed at \$0.40 per mile.

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")

Tom Dodson & Associates
("Consultant")

By: 
KARL N. (KASEY) HAWS
Mayor

By: 
Title: VICE PRES

ATTEST:


Lorrie Poyzer
City Clerk, City of Redlands