



Council Meeting: September 1, 2009

SUBJECT: Authorization to Modify an Existing Contract for Technical Services Relating to the City's NPDES Permit and WPCP Operations Support (F0908-13)

REPORT IN BRIEF

Approval is requested to modify an existing contract with Eisenberg, Olivieri and Associates, Inc. (EOA) of Oakland for technical services related to Water Pollution Control Plant (WPCP) Operations by increasing the not to exceed total of the existing contract by \$170,000 for additional services.

BACKGROUND

In August 2003, the Regional Water Quality Control Board issued a five year National Pollutant Discharge Elimination System (NPDES) permit to the City for the discharge of treated wastewater to Guadalupe Slough. The permit included effluent limitations on metals, organic constituents, toxicity, and other biological and physical components, as well as requirements for the completion of technical studies related to certain pollutants of concern.

In order to meet permit requirements, including related technical studies, and to provide the necessary technical expertise for successful operation of the WPCP, a five year contract was awarded by Council to EOA, Inc. (awarded 1/6/2004, RTC #04-002) in the amount of \$2,179,000 to provide this ongoing support. The original contract expired January 19, 2009, and was extended for one additional year, with no increase in contract value, by Council on January 27, 2009 (RTC #09-030). At the time of contract extension, there was a contract balance of approximately \$560,000.

DISCUSSION

Since the time of contract extension, negotiations for the new NPDES permit for the WPCP have begun. In addition to the normal, but extensive, analysis required with a new permit application that is covered under the one year EOA contract extension, there were several new permit requirements being proposed by the Regional Water Quality Control Board that were problematic for the City. Significant effort was required on the part of City staff and the consultant's team to negotiate terms that the City considered reasonable and appropriate. This work effort consumed much more of the remaining contract budget than was expected, resulting in expending the contract funds before the January 19, 2010 end date.

It should be noted that a new Request for Proposals for these services is in process, and should be released by the Purchasing Division by the end of August.

FISCAL IMPACT

Additional funds in the amount of \$170,000 will allow for additional technical support through the end of the contract period. Funds are available in Environmental Services Program 344840.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

RECOMMENDATION

It is recommended that Council modify an existing contract with EOA, Inc, in substantially the same form as the attached Second Amendment to Consultant services Agreement, by increasing the total not to exceed value of the contract by \$170,000, making the total value of the six year contract \$2,349,000.

Reviewed by:

Mary J. Bradley, Director of Finance

Prepared by: Pete Gonda, Senior Management Analyst, Finance

Reviewed by:

Marvin Rose

Director of Public Works

Approved by:

Gary M. Luebbbers

City Manager

Attachments

- A. Draft Second Amendment to Consultant Services Agreement
- B. Amendment to Consultant Services Agreement
- C. Consultant Services Agreement

DRAFT

**SECOND AMENDMENT TO CONSULTANT SERVICES AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND EOA, INC TO PROVIDE TECHNICAL SERVICES
RELATING TO CITY'S NPDES PERMIT**

This Second Amendment to Consultant Services Agreement, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY") and EOA, INC., a California corporation ("CONSULTANT").

WHEREAS, on January 20, 2004, CITY and CONSULTANT entered into a Consultant Services Agreement whereby CONSULTANT would provide specialized consulting services in relation to NPDES permit implementation support and technical services to ensure ongoing compliance with permit requirements; and

WHEREAS, on February 10, 2009, CITY and CONSULTANT agreed to amend the Agreement to extend the existing contract by one year, through January 19, 2010 and increase the hourly rates in accordance with the attachments, and

WHEREAS, the parties now agree that a Second Amendment to said Agreement is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS SECOND AMENDMENT TO CONSULTANT SERVICES AGREEMENT:

1. Replace Section 4 Compliance with the following:

CITY agrees to pay CONSULTANT on a time and materials basis. During the first calendar year of the Agreement term, fees shall be those established by CONSULTANT'S 2004 City of Sunnyvale Fee Schedule which is attached as Exhibit "B" and incorporated herein. Fees may be increased annually thereafter, provided that such increases do not exceed 3% per year. Estimated Project Fees are listed on the document entitled "Estimated Budget" which is attached as "Exhibit B-1" and incorporated by reference. Project Fees for Year Six (2009) are on the document entitled "Fee Schedule Effective January 1, 2009" which is attached as "Exhibit B-2" and incorporated by reference. Total compensation throughout the Agreement term shall not exceed Two Million Three Hundred Forty Nine Thousand and No/100 Dollars (\$2,349,000.00).

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Second Agreement Amendment.
APPROVED AS TO FORM CITY OF SUNNYVALE ("CITY")

By _____
City Attorney

By _____
City Manager

EISENBERG OLIVIERI & ASSOCIATES (EOA)
("CONSULTANT")

By _____

Name and Title

**AMENDMENT TO CONSULTANT SERVICES AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND EOA, INC.
TO PROVIDE TECHNICAL SERVICES RELATING TO CITY'S NPDES PERMIT**

This Amendment to Consultant Services Agreement, dated 2/10/09, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY") and EOA, INC., a California corporation ("CONSULTANT").

WHEREAS, on January 20, 2004, CITY and CONSULTANT entered into a Consultant Services Agreement whereby CONSULTANT would provide specialized consulting services in relation to NPDES permit implementation support and technical services to ensure ongoing compliance with permit requirements; and

WHEREAS, the parties now agree that an Amendment to said Agreement is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AMENDMENT TO CONSULTANT SERVICES AGREEMENT:

1. Replace Section 2. Time for Performance with the following:

CONSULTANT shall commence work immediately upon notification to proceed by the City. The term of this agreement shall be six (6) years from the date of Agreement execution. Time is of the essence of this agreement.

2. Replace Section 4. Compensation with the following:

CITY agrees to pay CONSULTANT on a time and materials basis. During the first calendar year of the Agreement term, fees shall be those established by CONSULTANT'S 2004 City of Sunnyvale Fee Schedule which is attached as Exhibit "B" and incorporated herein. Fees may be increased annually thereafter, provided that such increases do not exceed 3% per year. Estimated Project Fees are listed on the document entitled "Estimated Budget" which is attached as "Exhibit B-1" and incorporated by reference. Project Fees for Year Six (2009) are on the document entitled "Fee Schedule Effective January 1, 2009" which is attached as "Exhibit B-2" and incorporated by reference. Total compensation throughout the Agreement term shall not exceed Two Million One Hundred Seventy Nine Thousand and No/100 Dollars (\$2,179,000.00).

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")



City Clerk



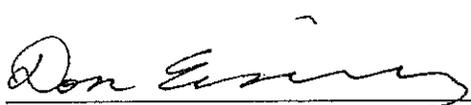
City Manager

APPROVED AS TO FORM:

EOA, INC.
("CONSULTANT")

By 

City Attorney

By 

Don Eisenberg, President
Name and Title

EXHIBIT B - 2

FEE SCHEDULE
Effective January 1, 2009
(City of Sunnyvale Rates for NPDES Support Contract Extension)

The following fee schedule covers personnel rates for EOA, Inc. staff.

Our charges are divided into two categories: personnel, and outside direct expenses. A new fee schedule is issued at the beginning of each year. Charges for all work, except where other arrangements have been made, are based on the new schedule of charges. Annual fee increases are set at 3%.

PERSONNEL

Personnel charges are for any technical, clerical or administrative work necessary to perform the project. Work tasks include geologic and environmental consulting, engineering and computer services, regulatory liaison, and report preparation. Personnel rates are as follows

Personnel Category	Hourly Rate
Principal	\$177.03
Managing Engineer/Scientist III	\$167.19
Managing Engineer/Scientist II	\$167.19
Managing Engineer/Scientist I	\$167.19
Senior Engineer/Scientist III – Project Leader	\$136.59
Senior Engineer/Scientist II	\$126.75
Senior Engineer/Scientist I	\$113.64
Associate Engineer/Scientist II	\$106.00
Associate Engineer/Scientist I	\$86.32
Technician	\$69.94
Clerical/Computer Data Entry	\$50.26

Charges for professional services are in increments of one quarter-hour.

Depositions/legal testimony charged portal-to-portal, at 200% of standard rates, with a four-hour minimum charge. In accordance with California Civil Procedure 2037.7, where applicable, the minimum fee must be paid prior to commencement of testimony. Preparation for court cases is charged on a time-and-materials basis as outlined in this fee schedule.

OUTSIDE DIRECT EXPENSES

Reimbursement for expenses directly related to services provided will be charged at cost plus 10%. Examples of such direct expenses include:

- Costs of subconsultants or subcontractors
- Costs of special fees (insurance, permits, etc.)
- Costs of long-distance telephone, copying, drafting, blueprints, etc. (EOA copies charged at \$ 0.10 each)
- Computer time for special graphic or data analysis applications at \$10/hr of computer time.
- Costs or rental of special equipment
- Costs of authorized travel outside Bay Area
- Automobile mileage directly related to services (federally approved rate)

INVOICES

Invoices are prepared and submitted on a monthly basis, as either final or progress billings.

EOA, Inc.

Duplicate Original

**CONSULTANT SERVICE AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND EOA, INC.
TO PROVIDE TECHNICAL SERVICES RELATING TO CITY'S NPDES
PERMIT**

THIS AGREEMENT dated January 20, 2004, 2004, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and EOA, INC., a California corporation ("CONSULTANT").

WHEREAS, on August 20, 2003 the City received its five-year point source NPDES permit from the regional Water Quality Control Board; and

WHEREAS, CITY is in need of specialized consulting services in relation to permit implementation support and technical services to ensure ongoing compliance with permit requirements;

WHEREAS, CONSULTANT possesses the skill and expertise to provide the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONSULTANT

CONSULTANT shall perform the services described in the document entitled "Scope of Work, which is attached as Exhibit "A" and incorporated by reference. CONSULTANT shall determine the method, details and means of performing the services. CITY shall have no right to, and shall not, control the manner or determine the method of accomplishing CONSULTANT'S services. CONSULTANT shall perform the services at such times and places as CONSULTANT shall determine, with the exception of attendance at meetings required in conjunction with the services rendered.

2. Time for Performance

CONSULTANT shall commence work immediately upon notification to proceed by the CITY. The term of this Agreement shall be five (5) years from the date of Agreement execution. Time is of the essence of this agreement.

3. Duties of CITY

CITY shall supply any documents or information available to City required by CONSULTANT for performance of its duties. Any materials provided shall be returned to CITY upon completion of the work.

4. Compensation

CITY agrees to pay CONSULTANT on a time and materials basis. During the first calendar year of the Agreement term, fees shall be those established by CONSULTANT's 2004 City of Sunnyvale Fee Schedule which is attached as Exhibit "B", and incorporated herein. Fees may be increased annually thereafter, provided that such increases do not exceed 3% per year. Estimated Project Fees are listed on the document entitled "Estimated Budget" which is attached as "Exhibit B-1" and incorporated by reference. Total compensation throughout the Agreement term shall not exceed Two Million One Hundred Seventy Nine Thousand and no/100 Dollars (\$2,179,000.00).

5. Ownership of Documents

The City Attorney shall have full and complete access to CONSULTANT's working papers and documents during progress of the work. All documents of any description prepared by CONSULTANT shall become the property of the CITY. CONSULTANT may retain a copy of all materials produced pursuant to this Agreement.

6. Conflict of Interests

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. CONSULTANT shall not accept employment or any obligation which is inconsistent or incompatible with CONSULTANT's obligations under this Agreement.

7. Confidential Information

CONSULTANT shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONSULTANT may become aware in the performance of its services.

8. Compliance with Laws

- a) CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, gender, age (persons 40 years or older), disability, or any other basis to the extent prohibited by federal, state, or local law. All employees of CONSULTANT shall be treated during employment without regard to their race, creed, color or national origin.
- b) CONSULTANT shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

9. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONSULTANT. CONSULTANT is responsible for paying all required state and federal taxes.

10. Indemnity

CONSULTANT agrees, to the extent permitted by law, to defend, indemnify and hold harmless CITY, its officers, officials, employees and volunteers from and against all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees, arising out of the performance of any of the services under this Agreement, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by CONSULTANT or its subcontractor, or anyone for whose acts any of them may be liable, except where caused by the sole active negligence or willful misconduct of the CITY.

11. Insurance

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates or endorsements as specified in Exhibit "C."

12. CITY Representative

Lorrie Gervin, Environmental Division Manager, Public Works Department, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

13. CONSULTANT Representative

Adam W. Olivieri shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

14. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Lorrie Gervin, PW/Environmental Services
Water Pollution Control Plan
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONSULTANT: Adam W. Olivieri
EOA, Inc.
1410 Jackson St.
Oakland, CA 94612

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of two days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

15. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

16. Termination

If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within thirty (30) days from the date payment is due.

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.

17. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

18. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:
CITY CLERK

By Suzanne A. Ramirez
Deputy City Clerk

CITY OF SUNNYVALE ("CITY")

By [Signature]
City Manager

APPROVED AS TO FORM:

[Signature]
Deputy Assistant City Attorney

EOA, INC. ("CONSULTANT")

By [Signature], PRES.
By [Signature], V.P.

Exhibit "A"
EOA, Inc. Scope of Work
Technical Assistance for City of Sunnyvale
NPDES Permit Implementation and WPCP Operations Support

Plant Performance and Compliance with NPDES Effluent Limits

EOA provides specialized process and environmental engineering support to WPCP Operations that is not otherwise available from City staff. This support is directed toward maintaining the WPCP's current high levels of treatment efficiency and compliance with NPDES permit limits. Work will be coordinated with the WPCP Operations Manager and will include:

Task 1. WPCP Operations Support

- Provide engineering support in the development and ongoing implementation of operational strategies for compliance with ammonia, toxicity, and other permit limits that may be influenced by operational measures.
- Provide support for WPCP capital projects: assist in project scoping and RFP development, consultant selection process, design review. Such support is intended to provide specialized expertise in wastewater engineering, to supplement/complement engineering services provided by other City Departments (e.g. Project Administration) or outside consultants.
- Provide assistance for polymer WPCP procurement contract, including development of RFP and testing protocols, evaluation of proposals and testing results; and vendor selection. Anticipated FY 2007-2008 only).
- Coordinate with WPCP managers and senior operators, including attendance at WPCP Senior Operators' meetings. General technical support to WPCP operations and maintenance not specifically provided by other tasks.

Task 2. Biosolids (Permit Section D)

- Maintenance of several existing computer applications used by the WPCP for biosolids management and tracking; modify/improve these as necessary to meet operational and regulatory compliance needs. Produce the monthly biosolids process report.
- Engineering assistance related to RFPs/procurement documents for biosolids hauling/disposal services (anticipated 2006 only)
- Assistance with planning and initiating optimum utilization of City's biosolids monofill.
- Technical and regulatory compliance support for biosolids operations (Permit section D.1)
- Preparation of EPA-mandated Biosolids Annual Report (Permit section D.3)

Task 3. Pond Cleaning Project

- The objective of the WPCP's pond cleaning project is to reverse the trend of ongoing solids accumulation in the oxidation ponds, to ensure the ponds continued ability to provide the high level of treatment needed to comply with NPDES Permit discharge requirements. A pilot project has been developed to define operational parameters for the dredging and dewatering processes, and to assess the impact of these processes on the integrity of WPCP treatment processes and NPDES permit compliance, and on WPCP operations. The pilot project is scheduled for implementation in 2004. Results and experience from the pilot project will be used to design a full-scale project.
- EOA will continue to provide engineering support for coordinating the pilot project, and take the lead role in the project impact assessments, in evaluating disposal options for pond sludge, and in producing a pilot project report.
- EOA will support implementation of the full-scale project, including project scoping, RFP for design engineer (if required), assistance to City staff with contractor procurement, data management and reporting.

Lab/Pretreatment Support, Data Management and Compliance Reporting

EOA will provide support to the Lab and Pretreatment Programs, and for related data management and compliance reporting. Work will include:

Task 4. Lab and Pretreatment Support (Provisions 6, 7, 8, 9, 10)

- General support to Lab and Pretreatment Programs
- Support the transition to the new Pretreatment database (development of custom reports and queries, user documentation, and training), and integration of that database into overall WPCP data management system
- Support for chronic toxicity testing, interpretation of results, coordination with WPCP and toxicity lab staff to implement the required chronic toxicity screening studies and TIE/TRB studies as needed. Support acute toxicity testing as necessary.
- Tracking regional pretreatment, pollution prevention and laboratory developments as they impact Sunnyvale, and report to WPCP management

Task 5. NPDES Self Monitoring Program and Compliance

- Advise plant management on NPDES permit compliance issues.
- Assist staff in use of RWQCB's Electronic Reporting System (ERS), including utility program used to transfer compliance data from WPCP data management system into ERS. Review new permit and coordinate with RWQCB staff to update City's ERS template to accurately reflect all current NPDES permit conditions.
- Track/participate in regional compliance issues/studies that impact Sunnyvale (e.g. regional chlorine residual monitoring study).
- Provide liaison/WPCP staff support in dealings with RWQCB on compliance issues.
- If necessary, assist City staff with development and implementation of Supplemental Environmental Projects.

Task 6. WPCP Data Management/SCADA

EOA will provide technical support to staff in WPCP's ongoing efforts to upgrade WPCP data management systems and plant SCADA system. Work with WPCP staff, City IT staff and/or outside consultants to identify and implement systems that facilitate regulatory reporting and compliance requirements, and foster operational efficiency.

Permit-Mandated Annual Reports

EOA will take the lead role in producing the following NPDES permit-mandated annual reports:

Task 7. Plant O&M Manual Update and Annual Status Report (Provisions 14, 16)

The NPDES permit requires that the WPCP's O&M Manual be kept current, and that an annual status report be submitted to the RWQCB. When kept up to date, the O&M Manual can play an important role in preserving the WPCP's "institutional memory" for plant operations. To facilitate this role, each unit process chapter of the Manual now includes an "Operational Strategy" section that describes the strategies that have developed to meet operational and compliance goals, and to respond to unusual/variable conditions encountered. Under this task, EOA will update sections as required and to reflect operational changes, new strategies, process modifications, and new processes. The following sections will require significant updating as a result of facilities now under construction or planned for construction during the next permit cycle: Gas Utilization System, Chlorination/Dechlorination, Chlorine Storage & Feed System, Sulfur Dioxide Storage & Feed System, Digesters (float transfer improvements) Water System, Electrical One-Lines. Other sections will require minor updates. EOA will prepare the annual status report for submittal to the RWQCB as called for under Provision 16.

Task 8. Plant Reliability Report and Contingency Plan Updates (Provisions 14, 15, 16)

Annually, review and, as necessary, revise or update the December 1999 Contingency Plan and the December 2001 WPCP Reliability Report, and prepare an annual status report as called for under Provision 16.

Task 9. Source Loading Component of Annual Pretreatment Report (Provision 10)

Annually, produce the Source Loading component of Annual Pretreatment Report, based on analytical data collected and analyzed by the WPCP (plant influent/effluent, residential/commercial collection system, lead and copper rule, industrial pretreatment, water supply) and flow data provided by the WPCP and/or City Finance department (IU flows, residential/commercial/industrial water usage).

Task 10. Copper-Nickel Action Plan Annual Report (Provision 10)

Annually, assist staff with the production of the copper-nickel action plan report and with the semi-annual WMI stakeholder meetings.

Permit-Mandated Special Studies

The State Implementation Policy (SIP) requires that certain actions be taken by dischargers

whose permits include interim limits and compliance schedules. The new NPDES permit contains several such interim limits, and requires that three "special studies" be conducted by the City. EOA will assist in these studies as defined below.

Task 11. Chlorodibromomethane and Dichlorobromomethane Study (Provision 3)

The intent of this study is to determine the relationship between chlorine dose and the formation of these two disinfection byproducts (DBPs), and to identify feasible control measures that would enable the WPCP to comply with CTR/SIP-based final effluent limits for those constituents. EOA will identify monitoring needs, compile and analyze monitoring data produced by the WPCP during the course of the study, identify and evaluate appropriate control measures, and submit annual and final reports to the RWQCB in accordance with the approved Workplan.

Task 12. Cyanide Compliance Schedule and Cyanide SSO Study (Provision 4)

Provision 4 directs the City to track and participate in the Water Environment Research Foundation (WERF) cyanide studies. The City will need to become a WERF member in order to meet this condition. Provision 4 further directs the City to participate in the development of site-specific objectives (SSOs) for San Francisco Bay. The SSO work is being conducted by the Bay Area Clean Water Agencies (BACWA), of which Sunnyvale is a member. On behalf of the City, EOA will track the WERF studies, and also participate in the BACWA effort. It is expected that annual reports prepared by the BACWA cyanide subgroup will meet the annual reporting requirement of this provision, however, EOA will verify this assumption and provide any supplemental reporting that may be required to comply with Provision 4. EOA will also prepare the final compliance attainability evaluation called for under Provision 4 for submission by August 20, 2005.

Task 13. Mercury Special Study (Provision 5)

Provision 5 calls for identifying an appropriate site for "first flush" monitoring of mercury-contaminated stormwater, analyzing any subsequent data collected, and evaluating feasibility and benefits of directing such water to the WPCP for treatment. Previously, EOA prepared a Workplan for submittal to the RWQCB that defined a three year study to meet the requirements this Provision. EOA will assist the City in implementing the Workplan, prepare required annual progress reports, and prepare a final report for submittal to the RWQCB by December 17, 2007.

Task 14. Receiving Water User Survey (Provision 12)

This survey is a "confirmation study" to support the RWQCB's decision that allows the City to meet bacteriological quality requirements complying with a new enterococcus limit. EOA will compile and summarize field data collected by WPCP staff during 2003/2004, analyze the data, and prepare a report for submittal to the RWQCB by December 31, 2004 as required by the Permit.

Other Permit-Related Technical & Regulatory Compliance Assistance

EOA will provide additional engineering and regulatory assistance in the following permit-specified or permit-related areas:

Task 15. Participation in WMI (Provision 11)

EOA will continue to provide technical support and representation for the City in the Santa Clara Basin Watershed Management Initiative (WMI), and management of the WMI's Watershed Assessment Subgroup (WAS). EOA's support provides specialized expertise in the areas of regulatory compliance, watershed management, water quality, and monitoring.

Task 16. Mass Offset Plan (Provision 13)

EOA will advise and assist in development of a mass offset plan for 303(d) listed pollutants. (This is an optional permit provision that may or may not be invoked by the City).

Task 17. State and Federal Rulemaking/Policy making Processes

EOA will track and provide technical input to state and federal regulatory, rulemaking, and policy making processes as they may impact WPCP and NPDES permit issues, and periodically report to the Environmental Division Manager and other designated staff.

Task 18. Participate in POTW Organizations

EOA will track developments and provide technical input to regional and statewide POTW organizations (e.g. BACWA, Tri-Tac) on issues of concern to the City, and periodically report to the Environmental Division Manager and other designated staff on these issues. Under this task, EOA attends meetings of the BACWA Executive Board and the BACWA Permit subcommittee on behalf of the City, and tracks activities of the various other BACWA subcommittees (collection system, laboratory, and biosolids).

Task 19. Coordination with Urban Runoff Programs

The City is listed as a co-permittee on the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) Permit. Most of the technical work associated with the permit is performed by City staff. However, City staff require specialized technical support in certain areas. Under this task, EOA will provide support to the City in developing plans for alternative compliance strategies and implementing technical modifications to the C3 provisions of the Permit, and assist staff in preparation of annual reports.

Task 20. Coordination with Environmental Organizations

EOA will provide technical assistance to City staff in addressing environmental organization concerns regarding stormwater, POTW, and other water quality issues, and periodically report to the Environmental Division Manager and other designated staff on these issues.

Task 21. Participate in RWQCB TMDL Processes (Provision 17)

On behalf of the City, EOA will participate on behalf of the City in the TMDL process for mercury, PCBs, and other constituents, as required under Provision 17 of the Permit. EOA will also track and provide technical comments on the SWRCB's 303(d) listing process. EOA will periodically report to the Environmental Division Manager and other designated staff on TMDL issues of importance to the City.

Task 22. Track NPDES Permit Developments and Preparations for 2008 NPDES Permit Renewal (Provision 23)

EOA will track Region 2 NPDES Permit renewals for issues of concern to City, track/participate in Basin Plan Amendment process and other RWQCB developments, and periodically report to the Environmental Division Manager and other designated staff on these issues. EOA will represent the City in a Permit Management group, which will meet periodically with RWQCB staff to review significant issues related to the South Bay NPDES Permits and Permit renewal.

The current NPDES permit expires in September 2008. A complete application is due in March 2008. This task will cover work on the application package, which includes the completion of application forms, preparing suggested draft permit wording, conducting reasonable potential analysis (RPA), effluent limits calculations, infeasibility studies, and other technical documentation, and participation in the permit renewal stakeholder process.

Project Management & Expenses

Task 23. Clerical & Project Management

This task provides for overall project coordination and scheduling, preparation and review of monthly invoices and work summaries, providing briefings for WPCP and other City managers as required, and other project management related work.

Expenses

Allowance for project expenses per EOA's City of Sunnyvale fee schedule.

Exhibit "B"
2004 FEE SCHEDULE
(City of Sunnyvale Rates)

The following fee schedule covers personnel rates for EOA, Inc. staff.

Our charges are divided into two categories: personnel, and outside direct expenses. A new fee schedule is issued at the beginning of each year. Charges for all work, except where other arrangements have been made, are based on the new schedule of charges. Annual fee increases shall not exceed 3%.

PERSONNEL

Personnel charges are for any technical, clerical or administrative work necessary to perform the project. Work tasks include geologic and environmental consulting, engineering and computer services, regulatory liaison, and report preparation. Personnel rates are as follows

Personnel Category	Hourly Rate
Principal	\$162
Supervising Engineer/Scientist	\$153
Senior Engineer/Scientist III – Project Leader	\$125
Senior Engineer/Scientist II	\$116
Senior Engineer/Scientist I	\$104
Associate Engineer/Scientist II	\$97
Associate Engineer/Scientist I	\$79
Technician	\$64
Clerical/Computer Data Entry	\$46

Charges for professional services are in increments of one quarter-hour.

Depositions/legal testimony charged portal-to-portal, at 200% of standard rates, with a four-hour minimum charge. In accordance with California Civil Procedure 2037.7, where applicable, the minimum fee must be paid prior to commencement of testimony. Preparation for court cases is charged on a time-and-materials basis as outlined in this fee schedule.

OUTSIDE DIRECT EXPENSES

Reimbursement for expenses directly related to services provided will be charged at cost plus 10%. Examples of such direct expenses include:

- Costs of subconsultants or subcontractors
- Costs of special fees (insurance, permits, etc.)
- Costs of long-distance telephone, copying, drafting, blueprints, etc. (BOA copies charged at \$ 0.10 each)
- Computer time for special graphic or data analysis applications at \$10/hr of computer time.
- Costs or rental of special equipment
- Costs of authorized travel outside Bay Area
- Automobile mileage directly related to services (federally approved rate)

INVOICES

Invoices are prepared and submitted on a monthly basis, as either final or progress billings.

EXHIBIT "B-1"

Table 1
EOA, Inc. NPDES Permit Implementation and WPCP Operations Technical Services Agreement
Estimated Budget

Task Name and Number	2004		2005		2006		2007		2008		TOTALS
	hrs	Amount									
<i>Plant Performance & Compliance w/ NPDES Limits</i>											
1. WPCP Operations and Process Control Support	550	86,900	550	89,700	550	92,400	550	95,200	550	119,300	483,500
2. Biosolids	260	33,800	260	34,900	320	44,800	260	36,900	280	38,100	188,500
3. Pond Cleaning Project	192	30,300	192	31,300	192	32,300	192	33,200	192	34,200	161,300
<i>Lab/Pretreatment Support, Data Management, Compliance Reporting</i>											
4. Lab and Pretreatment Support	96	13,300	96	13,800	96	14,200	96	14,700	96	15,100	71,100
5. NPDES Self Monitoring Program and Compliance	96	13,300	96	13,800	96	14,200	96	14,700	96	16,100	71,100
6. WPCP Data Management/SCADA	96	16,200	96	15,800	96	16,100	96	16,600	96	17,100	80,600
<i>NPDES Permit-Mandated Annual Reports</i>											
7. WPCP O&M Manual Updates/Status Reports	144	22,000	144	22,800	144	23,500	144	24,200	144	24,900	117,400
8. Plant Reliability Report and Contingency Plan Updates	64	8,000	64	8,300	64	8,500	64	8,800	64	9,000	42,600
9. Source Loading Component of Annual PT Report	80	9,300	80	9,500	80	9,800	80	10,200	80	10,500	49,300
10. Copper-Nickel Action Plan Annual Report	40	5,000	40	5,200	40	5,300	40	5,500	40	5,600	26,600
<i>NPDES Permit-Mandated Special Studies</i>											
11. Disinfection Byproducts Study	80	10,000	80	10,300	80	10,600	0	0	0	0	30,900
12. Cyanide Studies	48	6,000	48	6,200	48	6,400	48	6,600	48	6,800	32,000
13. Mercury Special Study	120	15,000	80	10,300	80	10,600	120	16,400	0	0	52,300
14. Receiving-Water User Survey	24	3,000	64	8,300	0	0	0	0	0	0	11,300
<i>Other Permit-Related Technical & Regulatory Assistance</i>											
15. Participation in WMI	192	31,100	192	32,100	192	33,000	192	34,000	192	34,800	165,100
16. Mass Offset Plan	0	0	0	0	0	0	40	6,700	40	6,900	13,600
17. State and Federal Rulemaking & Policy Making	48	7,300	48	7,600	48	7,800	48	8,100	48	8,300	39,100
18. Participate in POTW Organizations	96	14,700	96	15,200	96	15,600	96	16,100	96	16,600	78,200
19. Coordination with Urban Runoff Programs	192	31,100	144	24,000	64	11,000	48	8,500	48	8,700	83,300
20. Coordination with Environmental Organizations	48	7,800	48	8,000	48	8,300	48	8,500	48	8,700	41,300
21. Participate in TMDL Process	96	14,700	96	15,200	96	15,600	96	16,100	96	16,600	78,200
22. NPDES Permit Developments and Permit Renewal	48	7,300	48	7,600	48	7,800	168	28,200	288	49,800	100,700
<i>Project Management & Clerical Support</i>											
24. Project Management	264	14,700	264	15,100	264	15,400	264	15,800	264	16,200	77,200
Project Expenses (4% of subtotal)		16,000		16,200		16,100		17,000		18,500	83,800
TOTALS		415,800		421,000		419,300		442,000		480,900	2,179,000

Notes: All work is billed on a time and materials basis, per applicable fee schedule. Rates may vary among tasks depending on specific staff assigned.
Rates based on 2003 City of Sunnyvale Fee Schedule (10% reduction from standard EOA rates), with 3% per year increase for 2004-2008.

INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Consultant, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance Consultant shall maintain limits no less than:

1. **Commercial General Liability**: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. ISO Occurrence Form CG 0001 is required.
2. **Automobile Liability**: \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 is required if Consultant owns any vehicles. Otherwise, non-owned and hired automobile liability coverage is required.
3. **Workers' Compensation and Employer's Liability**: \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability Insurance**: Liability Insurance appropriate to the Consultants Profession: \$1,000,000 per claim and aggregate.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale. The consultant shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

Other Insurance Provisions

The **general liability** and **automobile liability** policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, if any, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers, except as follows. Coverage shall not extend to any indemnity coverage for the active

negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of section 2872 of the Civil Code of California.

2. For any claims related to this project, the Consultant's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not effect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party except after thirty (30) days' prior written notice has been given to the City of Sunnyvale.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Sunnyvale.

Verification of Coverage

Consultant shall furnish the City of Sunnyvale with original a Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale prior to commencement of work.