

COUNCIL DOCKET OF _____				
<input type="checkbox"/> Supplemental	<input type="checkbox"/> Adoption	<input type="checkbox"/> Consent	<input type="checkbox"/> Unanimous Consent	Rules Committee Consultant Review

R -

O -

Amendment to Agreement for MWH Americas, Inc., for Miramar Water Treatment Plan Upgrade and Expansion Project
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Reviewed     Initiated    By NR&C    On 12/03/08    Item No. 1f

RECOMMENDATION TO:

Approve.
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VOTED YEA: Frye, Faulconer, Peters

VOTED NAY:

NOT PRESENT: Atkins

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Engineering and Capital Projects Department's November 26, 2008, Executive Summary Sheet
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COUNCIL COMMITTEE CONSULTANT *M. Key*

000043

EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO

DATE ISSUED: November 26, 2008 REPORT NO:  
ATTENTION: Natural Resources and Culture Committee  
Agenda of December 3, 2008  
ORIGINATING DEPARTMENT: Engineering and Capital Projects  
SUBJECT: Amendment to the Agreement with MWH Americas, Inc. for  
the Miramar Water Treatment Plant Upgrade and Expansion  
Project  
COUNCIL DISTRICT(S): 5 (Maienschein)  
CONTACT/PHONE NUMBER: Dave Zoumaras (858) 627-3201  
Michael Marks (858) 627-3253

REQUESTED ACTION:

Council authorization via ordinance to execute a Third Amendment to the Agreement with MWH Americas, Inc. for construction management services for the construction of the Miramar Water Treatment Plant Contracts B, C and D.

STAFF RECOMMENDATION:

Adopt the Ordinance.

EXECUTIVE SUMMARY:

The City entered into Agreement R-294630 with MWH Americas, Inc. on March 5, 2001, in the amount of \$10,386,078 to provide construction management services for the Miramar Water Treatment Plant Upgrade and Expansion Project (MWTP). On August 2, 2004, the agreement was amended (First Amendment) C-12956 to update the insurance coverage requirements and reflect the corporate name change of Consultant. On January 17, 2006, the agreement was amended (Second Amendment) O-19455 to extend the expiration date of the agreement from December 31, 2005 to December 31, 2008.

At the time the original agreement was signed with MWH Americas, Inc., it was contemplated the upgrade and expansion of the Miramar Water Treatment Plant would be broken up into three construction contracts starting with the Early Start Improvements Phases (ESIP I & II) and the main treatment plant work. Due to funding issues with the CIP Program, the project was further broken up into subprojects titled Contract A, B, C and D. This would allow the Water Department to maintain water reliability both locally and regionally and provided for competitive bidding with local contractors. As of today, ESIP I, ESIP II and Contract A have been completed and Contract B and C are sixty and ten percent complete, respectively. Because of the magnitude and complexity of upgrading and expanding a major water treatment plant, it was envisioned the duration of the contracts would take over ten years to construct. With over four years remaining for completion of the MWTP facilities, it is being requested an additional \$3.5 million be approved and a time extension of five years be granted.

MWH Americas, Inc., has unique and specialized experience managing the construction of the MWTP and has gained knowledge of the plants design, operational and site requirements. Having a new consultant on board at this stage will delay the project and increase costs because of it's unfamiliarity with the current design and operational needs of the project.

The requested action is to execute a third amendment to the agreement with MWH Americas, Inc. for construction management services for the construction of the Miramar Water Treatment Plant Contracts B, C and D, to extend the contract time for five years and to authorize the expenditure of \$3,500,000.

EQUAL OPPORTUNITY CONTRACTING:

MWH Americas, Inc.

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Sub consultant Participation:	\$1,040,000 (29.71%); \$900,000 Certified Firms (25.71%); \$140,000 OBE (4.00%)
Prevailing Wage:	Prevailing wages apply
Other:	Work Force report submitted. Staff will monitor plan and adherence to Non Discrimination Ordinance.

FISCAL CONSIDERATIONS:

The total cost for construction management services with MWH Americas, Inc. is \$13,886,078. Funding of \$10,386,078 was previously authorized. Additional funding of \$3,500,000 for the Third Amendment to the Agreement with MWH Americas, Inc. is available from the previously authorized Enterprise Fund CIP 73-284.0, Miramar Water Treatment Plant Upgrade, Fund 41500, Water, for this purpose. This agreement will be funded this FY09. No future funding is anticipated for this agreement.

The total cost for construction management services of \$13,886,078 may be reimbursed approximately 80% by current or future debt financing.

PREVIOUS COUNCIL and/or COMMITTEE ACTION

Original agreement approved by City Council on March 5, 2001 (RR-294630) in the amount of \$10,386,078. On August 2, 2004, First Amendment to the Agreement (C-12956) to update the insurance coverage requirements and reflect the corporate name change of Consultant. Second Amendment approved by City Council via ordinance O-19455 on January 17, 2006 for three year time extension.

The subject item will be presented to the Committee on Natural Resources and Culture prior to the Council Docket.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City of San Diego has partnered with the community since the start of the MWTP. In 1999, the Water Department worked with community members to form the Miramar Water Treatment Plant Community Advisory Group (CAG), which is comprised of area residents living and working in the area to help mitigate project impacts which meet on a quarterly basis. Door hangers, fact sheets, MWTP WaterWorks newsletters, and updates on the City of San Diego Web site and community newsletters also add to the outreach efforts on behalf of the project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citywide Water Customers, Water Department, MWH Americas, Inc (Construction Manager), CDM Inc. (Designer), Archer Western Constructors, Western Summit Constructors, Inc., Scripps Ranch Community Advisory Group, San Diego County Water Authority and California Department of Health Services.



Patti Boekamp, Director  
Engineering and Capital Projects Department

David Jarrell  
Deputy Chief of Public Works

## SECTION 11 – PREPARATION OF: RESOLUTIONS, ORDINANCES, ETC. (CONTINUED)

2. Authorizing the amendment via an Ordinance to the Agreement R-294630 and O-19455 to extend the contract time for five years and increase the compensation with MWH by \$3,500,000; and
3. Authorizing the expenditure of \$3,500,000 from the Enterprise Fund CIP 73-284.0, Miramar Water Treatment Plant Upgrade and Expansion, Fund 41500, Water, for the construction management services for Miramar Water Treatment Plant, of which \$2,025,000 is for Contract B, \$1,225,000 is for Contract C and \$250,000 is for Contract D, for the purpose of executing this agreement, provided that the City Comptroller first furnishes a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer; and
4. Authorizing the City Comptroller, upon the advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

## SECTION 12 – SPECIAL CONDITIONS (CONTINUED)

ENVIRONMENTAL IMPACT: This activity is covered under LDR No. 99-0704, Miramar Water Treatment Plant Upgrade and Expansion EIR. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information or project changes to warrant additional environmental review. Because the prior environmental document adequately covered this activity as part of the previously approved project, the activity is not a separate project for the purposes of CEQA review per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

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DOCKET SUPPORTING INFORMATION  
CITY OF SAN DIEGO

EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION

DATE: 51  
November 21, 2008 02/17

SUBJECT: Amendment to the Agreement with MWH Americas, Inc. for the Miramar Water Treatment Plant Upgrade and Expansion Project

**GENERAL CONTRACT INFORMATION**

Recommended Consultant: MWH Americas, Inc.  
Amount of this Action: \$ 3,500,000.00  
Original Contract Amount: \$10,386,078.00  
Cumulative Amount: \$13,886,078.00  
Funding Source: City

**SUBCONSULTANT PARTICIPATION**

	<u>This Action</u>	<u>Cumulative</u>
CPM Construction (Other)	\$ 140,000.00 4.00%	\$ 995,000.00 7.17%
KPFF Consulting (Other)	\$ 0.00 0.00%	\$ 21,000.00 0.15%
Richard Brady & Associates (DBE/Hispanic Male)	\$ 800,000.00 22.86%	\$4,200,000.00 30.25%
Robert W. Hunt Company (Other)	\$ 0.00 0.00%	\$ 17,330.00 0.12%
Testing Services & Inspection (DBE/Hispanic Male)	\$ 100,000.00 2.86%	\$ 425,000.00 3.06%
Winstead & Company (Other)	\$ 0.00 0.00%	\$ 49,128.00 0.35%
<b>Total Certified Subconsultant Participation</b>	<b>\$ 900,000.00 25.71%</b>	<b>\$4,625,000.00 33.31%</b>
<b>Total Other Participation</b>	<b>\$ 140,000.00 4.00%</b>	<b>\$1,082,458.00 7.80%</b>
<b>Total Subconsultant Participation</b>	<b>\$1,040,000.00 29.71%</b>	<b>\$5,707,458.00 41.10%</b>

**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

Equal Opportunity: Required

MWH Americas, Inc. submitted a Work Force Report for their San Diego County employees dated October 12, 2008, with a total of 40 employees. The firm's Work Force Analysis reflects under representations in the following categories:

- Hispanics in A&E, Science, Computer; and Technical
- Asians in A&E, Science, Computer; and Technical
- Filipinos in A&E, Science, Computer; and Technical
- Females in A&E, Science, Computer

EOC staff is concerned about the under representations in the firm's Work Force Report Analysis and therefore, has requested an Equal Opportunity Plan. Once the plan is received, it will be reviewed and monitored to assure compliance.

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

**ADDITIONAL COMMENTS**

The *Work Force Report Analysis* is attached.

*JLR*  
JLR

File: Admin WOFO 2000

Date WOFO Submitted: 10/1/2008  
 Input by: Lad

Goals reflect statistical labor force availability for the following: 2000 CLFA  
 San Diego, CA

City of San Diego/Equal Opportunity Contracting  
**WORK FORCE ANALYSIS REPORT**

FOR  
 Company: MWH Americas, Inc

I. TOTAL WORK FORCE:

	Black		Hispanic		Asian		American Indian		Filipino		White		Other			
	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	Goals	M	F	
Mgmt & Financial	3.3%	0	0	11.9%	0	0	6.2%	0	0	0.4%	0	0	6.2%	0	3	0
Professional	4.0%	0	0	12.6%	0	0	5.5%	0	0	0.5%	0	0	6.5%	0	0	0
A&E, Science, Computer	2.8%	1	0	7.3%	0	0	16.2%	0	0	0.3%	0	0	16.2%	13	3	2
Technical	6.6%	0	0	14.8%	0	0	17.2%	0	0	0.4%	0	0	17.2%	8	5	1
Sales	3.9%	0	0	19.5%	0	0	6.8%	0	0	0.6%	0	0	6.8%	0	0	0
Administrative Support	7.0%	0	0	20.8%	0	1	8.8%	0	0	0.6%	0	0	8.8%	0	1	0
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0	0
Crafts	4.5%	0	0	25.8%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	0
Operative Workers	4.3%	0	0	38.8%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0	0
Transportation	8.1%	0	0	32.1%	0	0	4.5%	0	0	0.5%	0	0	4.5%	0	0	0
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	0
<b>TOTAL</b>		<b>1</b>	<b>0</b>		<b>0</b>	<b>1</b>		<b>0</b>	<b>0</b>		<b>0</b>	<b>0</b>		<b>23</b>	<b>12</b>	<b>2</b>

HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial  
 Professional  
 A&E, Science, Computer  
 Technical  
 Sales  
 Administrative Support  
 Services  
 Crafts  
 Operative Workers  
 Transportation  
 Laborers

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
5	2	3	39.8%
0	0	0	59.5%
19	16	3	22.3%
14	8	6	49.0%
0	0	0	49.4%
2	0	2	73.2%
0	0	0	62.3%
0	0	0	8.6%
0	0	0	36.7%
0	0	0	15.2%
0	0	0	11.1%
<b>40</b>	<b>26</b>	<b>14</b>	

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial	0.17	0	N/A	0.60	0	N/A	0.31	0	N/A	0.02	0	N/A	0.31	0	N/A	1.99	3	1.01
Professional	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
A&E, Science, Computer	0.53	1	N/A	1.39	0	(1.39)	3.08	0	(3.08)	0.06	0	N/A	3.08	0	(3.08)	4.24	3	(1.24)
Technical	0.92	0	N/A	2.07	0	(2.07)	2.41	0	(2.41)	0.06	0	N/A	2.41	0	(2.41)	6.86	6	N/A
Sales	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Administrative Support	0.14	0	N/A	0.42	1	N/A	0.18	0	N/A	0.01	0	N/A	0.18	0	N/A	1.46	2	N/A
Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

000049

**REQUEST FOR COUNCIL ACTION**  
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE) 51  
290046 02/17

TO: CITY ATTORNEY  
2. FROM (ORIGINATING DEPARTMENT): ENGINEERING AND CAPITAL PROJECTS  
3. DATE: October 23, 2008

4. SUBJECT  
Amendment to the Agreement with MWH Americas, Inc. for the Miramar Water Treatment Plant Upgrade and Expansion Project

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.) Dave Zoumaras (858) 627-3201, MS 18  
6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.) Michael Marks (858) 627-3253, MS 18  
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

**8. COMPLETE FOR ACCOUNTING PURPOSES**

FUND	41500	41500	41500	9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	760	760	760	Original Agreement \$10,386,078
ORGANIZATION	391050	391050	391050	Amendment #1 \$ 0
OBJECT ACCOUNT	4159	4159	4159	Amendment #2 \$ 0
JOB ORDER	188776	189016	188766	Amendment #3 \$ 3,500,000
C.I.P. NUMBER	73-284.0/73-284.4	73-284.0/73-284.6	73-284.0/73-284.5	Total Agreement \$ 13,886,078
AMOUNT	\$2,025,000	\$1,225,000	\$250,000	Previously Authorized \$ 10,386,078
				This Request \$ 3,500,000

**10. ROUTING AND APPROVALS**

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	DEPARTMENT DIRECTOR	<i>[Signature]</i>	11/18/08	8	DEPUTY CHIEF	<i>[Signature]</i>	12/24/08
2	WATER	APPROVAL SIGNATURES ON FILE		9	COO	<i>[Signature]</i>	12/29/08
3	EOCP			10	P&C	<i>[Signature]</i>	1/6/09
4	E.A.S.			11	CITY ATTORNEY	<i>[Signature]</i>	1/8/09
5	LIAISON OFFICE			12	ORIGINATING DEPARTMENT	<i>[Signature]</i>	1-13-09
6	FM/CIP	<i>[Signature]</i>	12/15/08	DOCKET COORD: _____ COUNCIL LIAISON: <i>[Signature]</i>		See ECP 12/27/08	
7	COMPTROLLER	<i>[Signature]</i>	12/17/08	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/>		COUNCIL DATE: 2-3-09	

11. PREPARATION OF:  RESOLUTION(S)  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

1. Authorizing the Mayor, or his designee, to execute the Third Amendment to the Agreement with MWH Americas, Inc., for construction management services in the amount of \$3,500,000; and  
(continued on next page)

11A. STAFF RECOMMENDATIONS:  
Adopt the Ordinance.

12. SPECIAL CONDITIONS:

**COUNCIL DISTRICT(S):** 5 (DeMaio)

**COMMUNITY AREA(S):** Scripps Miramar Ranch and Miramar Ranch North

**ENVIRONMENTAL IMPACT:** See continuation page

**CHARTER REQUIREMENTS:** In accordance with Charter Section 99, this ordinance must be adopted by a 2/3 majority vote by Council after holding a public hearing which will be noticed in the newspaper at least 10 days in advance.

**HOUSING IMPACT:** None

**ATTACHMENTS:** Four (4) signed original Amendment No. 3 Agreements, Consultant Award Tracking Form, Project Cost Estimate and Determination Form

**CITY CLERK INSTRUCTION:** Upon Council approval, please forward two (2) copies of the 1472 and the Ordinance to Joanne Ferrer at Project Implementation and Technical Services, MS 908A

000051

**EXECUTIVE SUMMARY SHEET**  
CITY OF SAN DIEGO

DATE ISSUED: January 6, 2009 REPORT NO:  
 ATTENTION: Council President and City Council  
 ORIGINATING DEPARTMENT: Engineering and Capital Projects  
 SUBJECT: Amendment to the Agreement with MWH Americas, Inc. for  
 the Miramar Water Treatment Plant Upgrade and Expansion  
 Project  
 COUNCIL DISTRICT(S): 5 (DeMaio)  
 CONTACT/PHONE NUMBER: Dave Zoumaras (858) 627-3201  
 Michael Marks (858) 627-3253

REQUESTED ACTION:

Council authorization via ordinance to execute a Third Amendment to the Agreement with MWH Americas, Inc. for Construction Management services for the construction of the Miramar Water Treatment Plant Contracts B, C and D.

STAFF RECOMMENDATION:

Adopt the Ordinance.

EXECUTIVE SUMMARY:

The City entered into Agreement R-294630 with MWH Americas, Inc. on March 5, 2001, in the amount of \$10,386,078 to provide construction management services for the Miramar Water Treatment Plant Upgrade and Expansion Project (MWTP). On August 2, 2004, the agreement was amended (First Amendment) C-12956 to update the insurance coverage requirements and reflect the corporate name change of Consultant. On January 17, 2006, the agreement was amended (Second Amendment) O-19455 to extend the expiration date of the agreement from December 31, 2005 to December 31, 2008.

When the City entered into the original agreement with MWH on March 5, 2001 it was anticipated the original contract amount of \$10,386,078 would be used for the first two phases of the project (Early Start Improvements Phases I & II) and a portion of the third phase of MWTP. As stated in the consultant's Scope of Work (See attached contract extract, Exhibit A), it was contemplated the completion of construction for the project would be beyond the contract expiration date of the agreement and that additional time and money would be necessary. This is due to the magnitude and complexity of upgrading and expanding a major water treatment plant which is scheduled to take over ten years to complete. Because of the need to insure water reliability both locally and regionally, the third phase was broken up into subprojects titled Contract A, B, C and D (Construction Cost, ESIP I - \$8,700,000; ESIP II - \$17,300,000; Contract A - \$83,600,000; Contract B - \$50,600,000; Contract C - \$16,900,000; Contract D - \$3,000,000 estimated). Currently ESIP I, ESIP II and Contract A have been completed and Contract B and C are seventy and fifteen percent complete, respectively. In addition, as a result of funding issues with the CIP Program due to prior year's inaccessibility to the bond market, the project was delayed several years which prompted staff to reevaluate and decrease the consultants staffing plan on the project to ensure adequate and efficient resources were being used. With over three years remaining for completion of the MWTP facilities, it is being requested an additional \$3.5 million be approved and a time extension of five years be granted for completing the remainders of Contracts B, C and D. This will complete all of the current planned work at the Miramar Water Treatment Plant site.

MWH has supervised over 75% of the construction and during that time has gained specialized experience managing the construction including knowledge of the plants design, operational and site

requirements. Having a new consultant on board at this stage will increase costs by delaying construction due to their unfamiliarity with the current design and operational needs of the project.

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The requested action is to execute a third amendment to the agreement with MWH Americas, Inc. for construction management services for the construction of the Miramar Water Treatment Plant Contracts B, C and D, to extend the contract time for five years and to authorize the expenditure of \$3,500,000.

EQUAL OPPORTUNITY CONTRACTING:

MWH Americas, Inc.

Funding Agency:

City of San Diego

Goals:

15% Voluntary (MBE/WBE/DBE/DVBE/OBE)

Subconsultant Participation:

\$1,040,000 (29.71%);  
\$900,000 Certified Firms (25.71%);  
\$140,000 OBE (4.00%)

Prevailing Wage:

Prevailing wages apply

Other:

Work Force report submitted.

Staff will monitor plan and adherence to Non Discrimination Ordinance.

FISCAL CONSIDERATIONS:

The total cost for construction management services with MWH Americas, Inc. is \$13,886,078.

Funding of \$10,386,078 was previously authorized. Additional funding of \$3,500,000 for the Third Amendment to the Agreement with MWH Americas, Inc. is available from the enterprise fund in CIP 73-284.0, Miramar Water Treatment Plant Upgrade, Fund 41500, Water, for this purpose. No future funding is anticipated for this agreement.

The total cost for construction management services of \$13,886,078 may be reimbursed approximately 80% by current or future debt financing.

PREVIOUS COUNCIL and/or COMMITTEE ACTION

Original agreement approved by City Council on March 5, 2001, RR-294630 in the amount of \$10,386,078. Second Amendment approved by Council via ordinance O-19455 on January 17, 2006 for three year time extension.

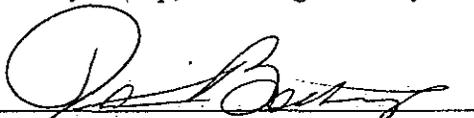
The Committee on Natural Resources and Culture on December 3, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote 3-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City of San Diego has partnered with the community since the start of the MWTP. In 1999, the Water Department worked with community members to form the Miramar Water Treatment Plant Community Advisory Group (CAG), which is comprised of area residents living and working in the area to help mitigate project impacts which meet on a quarterly basis. Door hangers, fact sheets, MWTP WaterWorks newsletters, and updates on the City of San Diego Web site and community newsletters also add to the outreach efforts on behalf of the project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citywide Water Customers, Water Department, MWH Americas, Inc (Construction Manager), CDM Inc. (Designer), Archer Western Constructors, Western Summit Constructors, Inc., Scripps Ranch Community Advisory Group, San Diego County Water Authority and California Department of Health Services.



Patti Boekamp, Director  
Engineering and Capital Projects Department



David Jarrell  
Deputy Chief of Public Works

## EXHIBIT A

## SCOPE OF CONSTRUCTION MANAGEMENT SERVICES

## MIRAMAR WATER TREATMENT PLANT

## PROJECT DESCRIPTION

This contract is for the construction management, monitoring, and inspection services relating to the proposed expansion, upgrade and repair of the existing Miramar Water Treatment Plant (WTP). The proposed construction and schedule is outlined below.

The Miramar WTP construction contract will consist of three phases which will also include the relocation of existing chemical and temporary fluoridation system. Construction management services as detailed in this Scope of Construction Management Services will be provided for the following three phases:

1. Early Start Improvements Phase I: This contract consists of initial project components outside Miramar WTP perimeter to accommodate the upgrade and expansion. These components are: 84" pipeline Tunnel (approx 1600' long and 70' deep, crossing CWA aqueducts), 54", 48" & 36" pipelines (open trench), valve vault structure and pump station improvements.
2. Early Start Improvements Phase II: This contract consists of the following components: 84" treated water pipeline, 90" raw water pipeline, splitter box and improvements to Miramar lake recreational area.
3. Miramar WTP Upgrade & Expansion: This contract consists of the following components/facilities: deaeration basin, rapid mix, ozone system, 12 new filters, two new flocculation/sedimentation basins, new chemical feed system, yard piping, new administration building, rehabilitation of four existing flocculation/sedimentation basins, demolition of the existing filters, renovation of the existing operation building and other miscellaneous improvements.

The Miramar Water Treatment Plant Project consists of three construction contracts. The present schedule for the three contracts is as follows:

1. Miramar Water Treatment Plant Early Start Improvements Phase I. Advertisement for bids is planned in December 2000. The construction is planned to begin in May 2001. Completion of the construction is expected in December 2002.
2. Miramar Water Treatment Plant Early Start Improvements Phase II. The construction is planned to begin in May 2002. Completion of the construction is expected in August 2003.
3. Miramar Water Treatment Plant Upgrade and Expansion. The construction is planned to begin in February 2003. Completion of the

000054

construction is expected at a date beyond the contract expiration date of this Agreement for CM Services.

For preparation of this Scope of Services, the following information was used:

During the construction period, the City will provide field offices for Construction Manager's (CM) staff. The field office will be furnished and equipped by the CM as required for performance of the scope of services.

City will provide all required testing. The CM will coordinate testing services.

The level of effort proposed in Schedule C of the Agreement is considered reasonable for a project of this scope and magnitude. Should factors beyond the control of the CM such as severe weather, labor strikes, and/or contractor workmanship deficiencies require additional effort, the CM, in the absence of an emergency, shall identify the additional effort required and obtain City approval in writing prior to the expenditure of the effort.

The responsibilities of City staff will include approval of contractor payments, approval of changes to the construction contract, authorization of extra work by the contractor as needed to avoid or minimize delays due to unforeseen conditions.

## II. SCOPE OF WORK

Consultant shall perform the services for the Miramar Water Treatment Plant Early Start Phases I and II and the Miramar Water Treatment Plant Upgrade and Expansion Project identified in Tasks 1 and 2 (below) of this Scope of Construction Management Services, which include Construction Management, Field Engineering, Administration, and Inspection; and Additional Services to be performed upon written notification of the City. The Consultant shall review and conform to the requirements of the Water Department's Capital Improvement Program Guidelines and Standards (CIP Guidelines).

### TASK 1: CONSTRUCTION MANAGEMENT, FIELD ENGINEERING, ADMINISTRATION AND INSPECTION

Services provided under this task will be performed or led primarily by the Construction Manager, Resident Engineer, Field Office Engineer, Inspector, specialty sub-consultant or administrative assistant.

#### 1.1 PRE-CONSTRUCTION PHASE

The generalized breakdown of pre-construction phase activities is as follows:

- Pre-Construction Conference (City Staff)
- Constructability Reviews/Site Constraints

The City of San Diego  
**CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

**000055**

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 2900468  
 ORIGINATING DEPT. NO.: 760

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ By: Van Nguyen  
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

**CERTIFICATION OF UNENCUMBERED BALANCE**

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$3,500,000.00

Vendor: MWH Americas, Inc.

Purpose: Authorizing an expenditure of funds for construction management services for Miramar Water Treatment Plant Contract B, C, and D.

Date: December 17, 2008 By: Van Nguyen  
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0	41500	760	391050	4159	188776				\$2,025,000.00
002	0	41500	760	391050	4159	189016				1,225,000.00
003	0	41500	760	391050	4159	188766				250,000.00
TOTAL AMOUNT										\$3,500,000.00

FUND OVERRIDE

AC 2900468

**PROJECT WATER COST ESTIMATE**

Miramar WTP Upgrade & Expansion  
Contract D  
 (Project Title)

Prepared by: Michael Marks  
 Date: 3-Oct-08  
 W.O. No. 18876173-284.5

000057

ACTIVITY	% OF E	73-284.5					TOTALS	% OF E
		Previous	FY09 Phase	FY10 Phase	FY11 Phase	FY Phase		
<b>A. Planning/Design/Administration</b>								
4114 Preliminary Engineering	0.0%					0.00		
4115 Outside Engineering - Tasks	0.0%					0.00		
4116 Construction Engineering	0.0%					0.00		
4118 Engineering Design	50.0%	250,000.00				250,000.00		
41181 Engineering Design #2	0.0%					0.00		
4151 Professional Services	0.0%					0.00		
4159 Construction Management	50.0%		250,000.00			250,000.00		
4222 Misc Contractual Services	0.0%					0.00		
4240 Reimbursement Agreements	0.0%					0.00		
<b>Total Planning/Design/Administration</b>		250,000.00	250,000.00	0.00	0.00	0.00	500,000.00	100.00%
<b>B. Construction</b>								
4150 Safety	0.0%					0.00		
4220 Prime Construction Contract	0.0%					0.00		
42201 Construction Contract #2	0.0%					0.00		
42220 JOC	0.0%					0.00		
4226 City Forces Work	0.0%					0.00		
4810 OCIP / Prof Liability / Bldrs Risk	0.0%					0.00		
4981 SDDPC Support	0.0%					0.00		
<b>Total Construction</b>		0.00	0.00	0.00	0.00	0.00	0.00	0.00%
<b>C. Equipment and Furnishings</b>								
3316 Pipe Fittings	0.0%					0.00		
4922 Construction Related	0.0%					0.00		
<b>Total Equipment and Furnishings</b>		0.00	0.00	0.00	0.00	0.00	0.00	0.00%
<b>D. Contingencies</b>								
4905 Contingencies	0.0%					0.00		
4909 Pooled Contingencies	0.0%					0.00		
<b>Total Contingencies</b>		0.00	0.00	0.00	0.00	0.00	0.00	0.00%
<b>SUBTOTAL</b>		250,000.00	250,000.00	0.00	0.00	0.00	500,000.00	100.00%
<b>E. Equipment &amp; Furnishings</b>								
4922 Equipment & Furnishings						0.00	0.00	
<b>F. Land Acquisition</b>								
4639 Land Acquisition				0.00	0.00	0.00	0.00	0.00
<b>TOTAL PROJECT</b>		250,000.00	250,000.00	0.00	0.00	0.00	500,000.00	

Prev. Auth. Res. #	0-19688/R-296874	100,000.00
Prev. Auth. Res. #	0-19688	400,000.00
Prev. Auth. Res. #		
<b>Total Previous Authorized</b>		<b>500,000.00</b>

ADDITIONAL PREV. AUTH. REQUIRED 0.00

FUNDING: 41500

COMMENTS:

**PROJECT WATER COST ESTIMATE**

Prepared by: Michael Marks  
 Date: 3-Oct-08  
 W.O. No. 189011/73-284.6

000058

Miramar WTP Upgrade & Expansion  
Contract C  
 (Project Title)

ACTIVITY	% OF E	73-284.6					TOTALS	TOTALS	% OF E
		Previous	FY09 Phase	FY10 Phase	FY11 Phase	FY Phase			
<b>A. Planning/Design/Administration</b>									
4114 Preliminary Engineering	0.5%	114,725.25					114,725.25		
4115 Outside Engineering - Tasks	0.2%	40,000.00					40,000.00		
4116 Construction Engineering	4.8%	864,616.46		350,000.00			1,214,616.46		
4118 Engineering Design	14.8%	3,250,000.00		500,000.00			3,750,000.00	CDM	
41181 Engineering Design #2	0.0%						0.00		
4151 Professional Services	0.0%						0.00		
4159 Construction Management	7.9%	764,666.00	1,225,000.00				1,989,666.00	MWH	
4222 Misc Contractual Services	0.0%						0.00		
4240 Reimbursement Agreements	0.0%						0.00		
<b>Total Planning/Design/Administration</b>		<b>5,034,007.71</b>	<b>1,225,000.00</b>	<b>850,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>7,109,007.71</b>	<b>7,109,007.71</b>	<b>28.10%</b>
<b>B. Construction</b>									
4150 Safety	0.0%						0.00		
4220 Prime Construction Contract	67.2%	14,613,222.00		2,400,000.00			17,013,222.00		
42201 Construction Contract #2	0.0%						0.00		
42220 JOC	0.0%						0.00		
4226 City Forces Work	1.6%	300,000.00		100,000.00			400,000.00		
4810 OCIP / Prof Liability / Bldrs Risk	0.0%						0.00		
4981 SDDPC Support	0.0%						0.00		
<b>Total Construction</b>		<b>14,913,222.00</b>	<b>0.00</b>	<b>2,500,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>17,413,222.00</b>	<b>17,413,222.00</b>	<b>68.80%</b>
<b>C. Equipment and Furnishings</b>									
3316 Pipe Fittings	0.0%						0.00		
4922 Equipment and Furnishing	0.2%	40,000.00					40,000.00		
<b>Total Equipment and Furnishings</b>		<b>40,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>40,000.00</b>	<b>40,000.00</b>	<b>0.20%</b>
<b>D. Contingencies</b>									
4905 Contingencies	2.9%	486,433.00		250,000.00			736,433.00		
4909 Pooled Contingencies	0.0%						0.00		
<b>Total Contingencies</b>		<b>486,433.00</b>	<b>0.00</b>	<b>250,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>736,433.00</b>	<b>736,433.00</b>	<b>2.90%</b>
<b>SUBTOTAL</b>		<b>20,473,662.71</b>	<b>1,225,000.00</b>	<b>3,600,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>25,298,662.71</b>	<b>25,298,662.71</b>	<b>100.00%</b>
<b>F. Land Aquisition</b>									
4639 Land Acquisition				0.00	0.00	0.00	0.00	0.00	
<b>TOTAL PROJEC1</b>		<b>20,473,662.71</b>	<b>1,225,000.00</b>	<b>3,600,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>25,298,662.71</b>	<b>25,298,662.71</b>	

Prev. Auth. Res. #	R-303053	27,800,000.00
Prev. Auth. Res. #	R-298774/O-19688	1,350,000.00
Prev. Auth. Res. #	0-19688	1,700,000.00
Prev. Auth. Res. #	C-14522	700,000.00
Prev. Auth. Res. #	C-14622	764,666.00
Prev. Auth. Res. #		
<b>Total Previous Authorized</b>		<b>32,314,666.00</b>

**EXCESS AUTHORIZED** 7,016,003.29

FUNDING: 41500

COMMENTS:

**PROJECT WATER COST ESTIMATE**

Miramar WTP Upgrade & Expansion  
 Contract B  
 (Project Title)

Prepared by: Michael Marks  
 Date: 3-Oct-08  
 W.O. No. 188771/73-284.4

000059

ACTIVITY	% OF E	73-284.4					TOTALS	% OF E
		Previous	FY09 Phase	FY10 Phase	FY11 Phase	FY Phase		
<b>A. Planning/Design/Administration</b>								
4114 Preliminary Engineering	0.4%	244,409.64				244,409.64		
4115 Outside Engineering - Tasks	0.1%	50,000.00				50,000.00		
4116 Construction Engineering	2.1%	1,105,590.36		200,000.00		1,305,590.36		
4118 Engineering Design	5.9%	3,250,000.00		400,000.00		3,650,000.00	CDM	
41181 Engineering Design #2	0.0%					0.00		
4151 Professional Services	0.0%					0.00		
4159 Construction Management	4.5%	764,666.00	2,025,000.00			2,789,666.00	MWH	
4222 Misc Contractual Services	0.0%					0.00		
4240 Reimbursement Agreements	0.0%					0.00		
<b>Total Planning/Design/Administration</b>		<b>5,414,666.00</b>	<b>2,025,000.00</b>	<b>600,000.00</b>	<b>0.00</b>	<b>8,039,666.00</b>	<b>8,039,666.00</b>	<b>13.10%</b>
<b>B. Construction</b>								
4150 Safety	0.0%					0.00		
4220 Prime Construction Contract	83.1%	50,379,601.00		647,219.00		51,026,820.00		
42201 Construction Contract #2	0.0%					0.00		
42220 JOC	0.0%					0.00		
4226 City Forces Work	0.8%	400,000.00		100,000.00		500,000.00		
4810 OCIP / Prof Liability / Bldrs Risk	0.0%					0.00		
4981 SDDPC Support	0.0%					0.00		
<b>Total Construction</b>		<b>50,779,601.00</b>	<b>0.00</b>	<b>747,219.00</b>	<b>0.00</b>	<b>51,526,820.00</b>	<b>51,526,820.00</b>	<b>83.90%</b>
<b>C. Equipment and Furnishings</b>								
3316 Pipe Fittings	0.0%					0.00		
4922 Construction Related	0.0%					0.00		
<b>Total Equipment and Furnishings</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00%</b>
<b>D. Contingencies</b>								
4905 Contingencies	0.0%					0.00		
4909 Pooled Contingencies	3.0%	1,370,399.00		500,000.00		1,870,399.00		
<b>Total Contingencies</b>		<b>1,370,399.00</b>	<b>0.00</b>	<b>500,000.00</b>	<b>0.00</b>	<b>1,870,399.00</b>	<b>1,870,399.00</b>	<b>3.00%</b>
<b>SUBTOTAL</b>		<b>57,564,666.00</b>	<b>2,025,000.00</b>	<b>1,847,219.00</b>	<b>0.00</b>	<b>61,436,885.00</b>	<b>61,436,885.00</b>	<b>100.00%</b>
<b>E. Equipment &amp; Furnishings</b>								
4922 Equipment & Furnishings						0.00	0.00	
<b>F. Land Acquisition</b>								
4639 Land Acquisition				0.00	0.00	0.00	0.00	0.00
<b>TOTAL PROJECT</b>		<b>57,564,666.00</b>	<b>2,025,000.00</b>	<b>1,847,219.00</b>	<b>0.00</b>	<b>61,436,885.00</b>	<b>61,436,885.00</b>	

Prev. Auth. Res. #	R-302605	28,450,000.00
Prev. Auth. Res. #	0-19688	1,600,000.00
Prev. Auth. Res. #	R-298874/0-19688	1,350,000.00
Prev. Auth. Res. #	C-14522	700,000.00
Prev. Auth. Res. #	C-14622	764,666.00
Prev. Auth. Res. #	R-303804	27,897,219.00
Prev. Auth. Res. #		
<b>Total Previous Authorized</b>		<b>60,781,885.00</b>

**ADDITIONAL AUTHORIZED REQUIRED (675,000.00)**

FUNDING: 41500

COMMENTS:

000061

DETERMINATION FORM

CONFLICT OF INTEREST CODE:  
DETERMINATION OF APPLICABILITY TO CONSULTANT

Name of Consultant & Company:

Glenn Vita, Michelle Berens, Wayne  
Mcfadden, MWH Americas, Inc.  
9444 Farnham Street  
San Diego, CA 92123

Consultant Duties:

Construction Administration and Field  
Inspection. Contract duration through 2013

Disclosure determination:

Consultant will not be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B attached. No disclosure required.

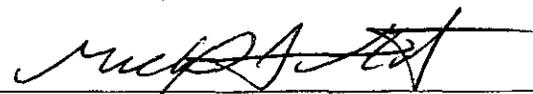
Consultant will be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B attached. Consultant is required to file a Statement of Economic Interests with the City Clerk of the City of San Diego in a timely manner as required by law.

Disclosure required to the broadest level.

Disclosure required to a limited extent:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:

  
\_\_\_\_\_  
Michael Marks, Senior Civil Engineer, E&CP

10/22/08

\_\_\_\_\_  
Date

\*Forward a copy of this form to the Consultant to notify them of the determination.  
\*Forward a copy of this form to the City Clerk's office to go on file for reporting purposes.

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE THIRD AMENDMENT TO  
THE AGREEMENT WITH MWH AMERICAS, INC. FOR THE  
MIRAMAR WATER TREATMENT PLANT UPGRADE AND  
EXPANSION PROJECT.

WHEREAS, the original Agreement approved by City Council on March 5, 2001, Resolution No. R-294630 in the amount of \$10,386,078, and on August 2, 2004, the First Amendment to the Agreement (C-12956) to update the insurance coverage requirements and reflect the corporate name change of Consultant and the Second Amendment approved by City Council via Ordinance No. O-19455 on January 17, 2006 for three year time extension; and

WHEREAS, at the time the original Agreement was signed with MWH Americas, Inc., it was contemplated the Upgrade and Expansion of the Miramar Water Treatment Plant would be broken up into three construction contracts starting with the Early Start Improvements Phases [ESIP I & II] and the main treatment plant work; and

WHEREAS, due to funding issues with the CIP Program, the project was further broken up into subprojects titled Contract A, B, C and D. This would allow the Water Department to maintain water reliability both locally and regionally and provided for competitive bidding with General Construction Contractors; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor, be and he is hereby authorized and empowered to execute the Third Amendment to the Agreement with MWH Americas, Inc., for construction management services in the amount not to exceed \$3,500,000, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as Document No. OO-\_\_\_\_\_.

Section 2. That authorizing the expenditure of \$3,500,000 from the Enterprise Fund CIP No. 73-284.0, Miramar Water Treatment Plant Upgrade and Expansion, Fund 41500, Water, for the construction management services for Miramar Water Treatment Plant, of which \$2,025,000 is for Contract B, \$1,225,000 is for Contract C and \$250,000 is for Contract D, for the purpose of executing this Agreement is authorized, contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer and upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Section 3. That this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under LDR No. 99-0704, Miramar Water Treatment Plant Upgrade and Expansion EIR. The activity is adequately addressed in the environmental document and there is no change in circumstances, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines section 15177.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Mark M. Mercer  
Deputy City Attorney

000065

(O-2009-86)  
(COR. COPY)

MMM:nda  
12/09/08  
Or. Dept: E&CP  
O-2009-86

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

**THIRD AMENDMENT TO AGREEMENT BETWEEN MWH AMERICAS, INC. AND  
THE CITY OF SAN DIEGO FOR CONSULTING SERVICES**

This Third Amendment to the Agreement between the City of San Diego and MWH Americas, Inc. for Consulting Services dated March 5, 2001 [Agreement], is hereby entered into by and between the City of San Diego [City], a municipal corporation, and MWH Americas, Inc. [Consultant].

**RECITALS**

A. The City and Consultant [collectively referenced herein as the "Parties"] entered into the Agreement, which is on file in the Office of the City Clerk as Document No. RR-294630, to provide Construction Management Services for the Miramar Water Treatment Plant Upgrade and Expansion Project [Project].

B. The Parties entered into a first amendment to the Agreement, which is on file in the Office of the City Clerk as Document No. C-12956.

C. The Parties entered into a second amendment to the Agreement, which is on file in the Office of the City Clerk as Document No. O-19455.

D. The City desires to execute a Third Amendment to the Agreement for the Consultant to provide additional Professional Services, as indicated in the expanded Scope of Services [Exhibit A-1], for a compensation amount not to exceed \$3,500,000, with total compensation for services provided under the Agreement not to exceed \$13,886,078.

E. Consultant desires to provide the services required under this Third Amendment.

000068

NOW, THEREFORE, in consideration of the Recitals stated above and incorporated herein by this reference and the mutual obligations of the Parties expressed herein, the Parties agree to modify the Agreement, which is incorporated herein by reference, as follows:

1. Article I be deleted in its entirety and replaced with the following:

## ARTICLE I

### PROFESSIONAL SERVICES

**1.1 Scope of Services.** The Consultant shall perform the Professional Services as set forth in the written Scope of Services (Exhibit A-1) at the direction of the City.

**1.2 Contract Administrator.** The Engineering and Capital Projects Department is the contract administrator for this Agreement. The Consultant shall provide the Professional Services under the direction of a designated representative of the Engineering and Capital Improvement Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. However, when this Agreement refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor or his designee, unless the Agreement specifies otherwise.

**1.3 City Modification of Scope of Services.** The City may, without invalidating this Agreement, order changes in the Scope of Services by altering, adding to or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any of the Professional Services, the Consultant shall immediately notify the City in accordance with Section 9.1 of this Agreement. If the City deems it appropriate, an equitable adjustment to the Consultant's compensation or time for performance may be made, provided that any adjustment must be approved by both Parties in writing.

**1.4 Written Authorization.** Prior to performing any Professional Services in connection with the Project, the Consultant shall obtain from the City a written authorization to proceed. Further, throughout the term of this Agreement, the Consultant shall immediately advise the City in writing of any anticipated changes in the Scope of Services (Exhibit A-1), Compensation and Fee Schedule (Exhibit B), or Time Schedule (Exhibit C), and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Professional Services in

accordance with applicable laws and accepted industry standards.

**1.5 Confidentiality of Services.** All Professional Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission of the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Except for Subcontractors covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

2. Section 2.1 be deleted in its entirety and replaced with the following:

**2.1 Term of Agreement.** This Agreement shall be effective on December 31, 2008 and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, it shall be effective until completion of the Scope of Services or **December 31, 2013** whichever is the earliest but not to exceed five years unless approved by City ordinance.

3. Section 2.2 be deleted in its entirety and replaced with the following:

**2.2 Time of Essence.** Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement. The time for performance of the Scope of Services (Exhibit A-1) is set forth in the Time Schedule (Exhibit C).

4. Section 2.6 be deleted in its entirety and replaced with the following:

**2.6 City's Right to Terminate for Convenience.** The City may, at its sole option and for its convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the Consultant. After termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Professional Services under this Agreement. For services satisfactorily rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Professional Services performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all drawings, plans, calculations, specifications and other documents or records related to both the Project and to the Consultant's Professional Services on the Project. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant

discharges the City of all of the City's payment obligations and liabilities under this Agreement.

5. Section 2.7 be deleted in its entirety and replaced with the following:

**2.7 City's Right to Terminate for Default.** If the Consultant fails to satisfactorily perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. A Default includes the Consultant's failure to adhere to the Time Schedule. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

6. Article III be deleted in its entirety and replaced with the following

### ARTICLE III

#### COMPENSATION

**3.1 Amount of Compensation.** The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including reasonably related expenses, in an amount not to exceed **\$3,500,000**. The City shall pay the Consultant in accordance with Section 3.3 The compensation for the Scope of Services shall not exceed \$3,350,000, and the compensation for Additional Services (described in Section 3.2), if any, shall not exceed \$150,000.

**3.2 Additional Services.** The City may require that the Consultant perform additional Professional Services beyond those described in the Scope of Services [Additional Services]. Prior to the Consultant's performance of Additional Services, the City and the Consultant must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule (Exhibit B). The City will pay the Consultant for the performance of Additional Services in accordance with Section 3.3.

**3.3 Manner of Payment.** The City shall pay the Consultant in accordance with the Compensation and Fee Schedule (Exhibit B). For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional

Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt.

**3.4 Additional Costs.** Additional Costs are those costs that can be reasonably determined to be related to the Consultant's errors or omissions, and may include Consultant's, City, or Subcontractor overhead, construction, materials, demolition, and related costs. The Consultant shall not be paid for the Professional Services required due to the Consultant's errors or omissions, and the Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, the Consultant. Whether or not there are any monies due, or becoming due, the Consultant shall reimburse the City for Additional Costs due to the Consultant's errors or omissions.

**3.5 Eighty Percent Notification.** The Consultant shall promptly notify the City in writing of any potential cost overruns. Cost overruns include, but are not limited to the following: (1) where anticipated costs to be incurred in the next sixty calendar days, when added to all costs previously incurred, will exceed 80 percent of the maximum compensation for this Agreement; or (2) where the total cost for performance of the Scope of Services (Exhibit A-1) appears that it may be greater than the maximum compensation for this Agreement.

7. Article IV be deleted in its entirety and replaced with the following:

## ARTICLE IV

### CONSULTANT'S OBLIGATIONS

**4.1 Industry Standards.** The Consultant agrees that the Professional Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional construction management firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the Mayor or his designee, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for reasonably complying with all applicable and published, laws, codes, and good consulting practices.

#### **4.2 Right to Audit.**

**4.2.1 Access.** The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subcontractor's premises to review and audit the Consultant's or Subcontractor's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Consultant's premises, of any and all Project-related records with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This

information shall be kept by the City in the strictest confidence allowed by law.

**4.2.2 Audit.** The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines are necessary to discover and verify that the Consultant or Subcontractor is in compliance with all requirements under this Agreement. During normal business hours and upon reasonable notice.

**4.2.2.1 Cost Audit.** If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

**4.2.2.2 Accounting Records.** The Consultant and all Subcontractors shall maintain complete and accurate records in accordance with Generally Accepted Accounting Practices in the industry. The Consultant and Subcontractors shall make available to the City for review and audit; all Project related accounting records and documents, and any other financial data. Upon the City's request, the Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the City.

**4.2.3 City's Right Binding on Subcontractors.** The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subcontractors.

**4.2.4 Compliance Required before Mediation or Litigation.** A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's and Subcontractors full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

**4.3 Insurance.** The Consultant shall not begin the Professional Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates and endorsements reflecting evidence of all insurance required in Article IV, Section 4.3.1; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each company or companies as required by Article IV, Section 4.3.2; and (c) confirmed that all policies contain the specific provisions required in Article IV, Section 4.3.4. Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of

contract by the City.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

**4.3.1 Types of Insurance.** At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

**4.3.1.1 Commercial General Liability.** Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**4.3.1.2 Commercial Automobile Liability.** For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per accident. Insurance certificate shall reflect coverage for any automobile (any auto).

**4.3.1.3 Workers' Compensation.** For all of the Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Consultant shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

**4.3.1.4 Architects & Engineers Professional Liability.** For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of \$5 million per claim and \$5 million annual aggregate. The Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the Project; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Project or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss. All defense costs shall be outside the limits of the policy.

**4.3.2 Deductibles.** All deductibles on any policy shall be the responsibility of the Consultant and shall be disclosed to the City at the time the evidence of insurance is

provided.

#### **4.3.3 Acceptability of Insurers.**

**4.3.3.1** Except for the State Compensation Insurance Fund, all insurance required by this Contract or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

**4.3.3.2** The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

#### **4.3.4 Required Endorsements.**

The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

##### **4.3.4.1 Commercial General Liability Insurance Endorsements.**

**ADDITIONAL INSURED.** To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

**PRIMARY AND NON-CONTRIBUTORY COVERAGE.** The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

**CANCELLATION.** Except as provided for under California Law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

**SEVERABILITY OF INTEREST.** The policy or policies must be endorsed to provide that 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 and shall provide cross-liability coverage.

#### **4.3.4.2 Automobile Liability Insurance Endorsements**

**ADDITIONAL INSURED.** To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an *additional Insured* the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the Consultant.

**CANCELLATION.** Except as provided for under California Law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payments of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

**SEVERABILITY OF INTEREST.** The policy or policies must be endorsed to provide that 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 and shall provide cross-liability coverage.

#### **4.3.4.3 Worker's Compensation and Employer's Liability Insurance Endorsements.**

**CANCELLATION.** Except as provided for under California law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

**WAIVER OF SUBROGATION.** The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

#### **4.3.4.4 Architects & Engineers Professional Liability Insurance.**

**CANCELLATION.** Except as provide for under California Law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or

policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

**4.3.5 Reservation of Rights.** The City reserves the right, from time to time, to review the Consultant's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Consultant for the cost of the additional premium for any coverage requested by the City in excess of that required by this Agreement without overhead, profit, or any other markup.

**4.3.6 Additional Insurance.** The Consultant may obtain additional insurance not required by this Agreement.

**4.3.7 Excess Insurance.** All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

**4.4 Subcontractors.** The Consultant's hiring or retaining of any third parties [Subcontractors] to perform services related to the Project [Subcontractor Services] is subject to prior approval by the City. The Consultant shall list on the Subcontractor List (Exhibit D Attachment BB) all Subcontractors known to the Consultant at the time this Agreement is entered. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subcontractor Services, the Consultant shall give written notice to the City of the need, at least forty-five days before entering into a contract for such Subcontractor Services. The Consultant's notice shall include a justification, a description of the scope of work, and an estimate of all costs for the Subcontractor Services. The Consultant may request that the City reduce the forty-five day notice period. The City agrees to consider such requests in good faith.

**4.4.1 Subcontractor Contract.** All contracts entered into between the Consultant and any Subcontractor shall contain the information as described in Sections 4.6, 4.7, 4.10.2, and 4.18, and shall also provide as follows:

**4.4.1.1** Each Subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. Each Subcontractor shall obtain, and the Consultant shall require the Subcontractor to obtain, all policies described in Section 4.3.1 in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

**4.4.1.2** The Consultant is obligated to pay the Subcontractor, for Consultant and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than fourteen working days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.

**4.4.1.3** In the case of a deficiency in the performance of

Subcontractor Services, the Consultant shall notify the City in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor must take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, the Consultant shall pay the Subcontractor the amount withheld within fourteen working days of the Consultant's receipt of the City's next payment.

**4.4.1.4** In any dispute between the Consultant and Subcontractor, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subcontractor should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

**4.4.1.5** The Subcontractor is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.6 and Exhibit D of this Agreement.

**4.4.1.6** The City is an intended beneficiary of any work performed by the Subcontractor for purposes of establishing a duty of care between the Subcontractor and the City.

**4.5 Contract Activity Report.** The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report (Exhibit D Attachment CC). The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subcontractor listed in the report. The Consultant agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subcontractor Services as described in Section 4.4.1.

#### **4.6 Non-Discrimination Requirements.**

**4.6.1 Compliance with the City's Equal Opportunity Contracting Program.** The Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements (Exhibit D). The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold the Consultant liable for any discriminatory practice of its Subcontractors.

**4.6.2 Non-Discrimination Ordinance.** The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or

suppliers. The Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subcontractors, vendors and suppliers.

**4.6.3 Compliance Investigations.** Upon the City's request, the Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that the Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Consultant for each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance (San Diego Municipal Code sections 22.3501-22.3517) The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

**4.7 Drug-Free Workplace.** The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form (Exhibit E).

**4.7.1 Consultant's Notice to Employees.** The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

**4.7.2 Drug-Free Awareness Program.** The Consultant shall establish a drug-free awareness program to inform employees about: (1) the dangers of drug abuse in the work place; (2) the policy of maintaining a drug-free work place; (3) available drug counseling, rehabilitation, and employee assistance programs; (4) the penalties that may be imposed upon employees for drug abuse violations.

**4.7.3 Posting the Statement.** In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

**4.7.4 Subcontractor's Agreements.** The Consultant further certifies that each contract for Subcontractor Services for this Project shall contain language that binds the Subcontractor to comply with the provisions of Article IV, Section 4.7 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and

Subcontractors shall be individually responsible for their own drug-free work place program.

**4.8 Title 24/Americans with Disabilities Act Requirements.** Consultant has sole responsibility for ensuring that all Project plans and other design services comply with all accessibility requirements under Title 24 of the California Code of Regulations, known as the California Building Code (Title 24), and under the Americans with Disabilities Act Accessibility Guidelines (ADAAG) in effect at the time the designs are submitted to the City for review. When a conflict exists between Title 24 and ADAAG, the most restrictive requirement shall be followed by Consultant (i.e., that which provides the most access). Consultant warrants and certifies that any and all plans and specifications prepared for the City in accordance with this agreement shall meet all requirements under Title 24 and ADAAG. Consultant understands that while the City will be reviewing Consultant's designs for compliance in specific and certain areas under Title 24 and ADAAG prior to acceptance of Consultant's designs, Consultant understands and agrees that the City's access review process and its acceptance of Consultant's designs in no way limits the Consultant's obligations under this agreement to prepare designs that comply with all requirements under Title 24 and ADAAG.

**4.9 Product Endorsement.** The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

**4.10 Conflict of Interest.** The Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

**4.10.1** If, in performing the Professional Services set forth in this Agreement, any member of the Consultant's organization makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the individual shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the individual's relevant financial interests. The determination as to whether any individual members of the Consultant's organization must make disclosures of relevant financial interests is set forth in the Determination Form (Exhibit F).

**4.10.1.1** If a determination is made that certain individuals must disclose relevant financial interests, the statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The individual shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the individuals are subject to a conflict of interest code. Each year thereafter, the individuals shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial

interests held during the previous calendar year for which the individual was subject to a conflict of interest code. A Form 700 (*Leaving Office Statement*) shall also be filed when the individual discontinues services under this Agreement.

**4.10.1.2** If the City requires an individual member of the Consultant's organization to file a statement of economic interests as a result of the Professional Services performed, the individual shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

**4.10.2** The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

**4.10.3** The Consultant and its Subcontractors having subcontracts amounting to 1% or more of the value of the Professional Services agreed to under this Agreement are precluded from participating in design services on behalf of the contractor, and any other construction services related in any way to these Professional Services without the *prior written consent of the City*.

**4.10.4** The Consultant's personnel employed on the Project shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

**4.10.5** If the Consultant violates any conflict of interest law or any of the provisions in this Section 4.10, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorney's fees and all damages sustained as a result of the violation.

**4.11 Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Professional Services provided under this Agreement, upon the City's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

**4.12 Compensation for Mandatory Assistance.** The City will compensate the Consultant for fees incurred for providing Mandatory Assistance as Additional Services under Section 3.2. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of the Consultant, its agents, officers, and employees, the Consultant shall

reimburse the City. The City is then entitled to reimbursement of all fees paid to the Consultant, its agents, officers, and employees for Mandatory Assistance.

**4.13 Attorney Fees related to Mandatory Assistance.** In providing the City with dispute or litigation assistance, the Consultant or its agents, officers, and employees may incur expenses and/or costs. The Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

**4.14 Storm Water Management Discharge Control.** The Consultant shall comply with Section 43.03 of the San Diego Municipal Code, Storm Water Management Discharge Control, and any and all Best Management Practice guidelines and pollution elimination requirements as may be established by the Enforcement Official. Further, the Consultant shall enforce the Project's Storm Water Pollution Prevention Plan (SWPPP) as implemented by the contractor during Project construction. Where applicable, the SWPPP shall comply with both the California Regional Water Quality Control Board Statewide General Construction Storm Water permit and National Pollution Discharge Elimination System permit requirements and any municipal regulations adopted pursuant to the permits.

- 8. Article V be deleted in its entirety and replaced with the following:

**ARTICLE V**

**RESERVED**

- 9. Article VI be deleted in its entirety and replaced with the following:

**ARTICLE VI**

**INDEMNIFICATION**

**6.1 Indemnification.** Other than in the performance of Consultant services which shall be solely as addressed in Section 6.2 below, to the fullest extent permitted by law, Consultant shall defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, agents, departments, officials, and employees [Indemnified Parties] from and against all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Consultant or its Subcontractors), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, reasonable attorney's fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any services that is not covered by Article VI Section 6.2 and is performed under this Agreement by the Consultant, any Subcontractor, anyone directly or indirectly employed by them, or anyone that they control. The Consultant's duty to defend, indemnify, protect and hold harmless shall not

include any claims or liabilities arising from the active negligence, sole negligence or willful misconduct of the Indemnified Parties.

**6.2 Consultant Services Indemnification and Defense.**

**6.2.1 Consultant Services Indemnification.** To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782.8), with respect to the performance of Consultant services, Consultant shall indemnify and hold harmless the City, its officers, or employees, from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Consultant or Consultant's officers or employees.

**6.2.2 Consultant Services Defense.** Parties will work in good faith to procure applicable insurance coverage for the cost of any defense arising from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Consultant or Consultant's officers or employees.

**6.3 Insurance.** The provisions of this Article are not limited by the requirements of Section 4.3 related to insurance.

**6.4 Enforcement Costs.** The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in this Article.

10. Article VIII be deleted in its entirety and replaced with the following:

**ARTICLE VIII**

**INTELLECTUAL PROPERTY RIGHTS**

**8.1 Work For Hire.** All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the City pursuant to this Agreement (Deliverable Materials) is "work for hire" under the United States Copyright law and shall become the sole property of the City and shall be delivered to the City upon request. The Contractor, including its employees, and independent Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the City to the deliverable Materials.

**8.2 Rights in Data.** All rights (including, but not limited to publication(s), registration of copyright(s), and trademark(s)) in the Deliverable Materials, developed by the Contractor, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the City. The Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Product mentioned in this article for purposes unrelated to Consultant's work on behalf of the City without prior written consent

of the City.

**8.4 Moral Rights.** Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)' benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

**8.5 Subcontracting.** In the event that Consultant utilizes a Subcontractor(s) for any portion of the Work that is in whole or in part of the specified Deliverable(s) to the City, the agreement between Consultant and the Subcontractor [Subcontractor Agreement] shall include a statement that identifies that the Deliverable/Work product as a "work-for hire" as defined in the Act and that all intellectual property rights in the Deliverable/Work product, whether arising in copyright, trademark, service mark or other belongs to and shall vest solely with the City. Further, the Subcontractor Agreement shall require that the Subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to the City, all titles, rights and interests in and to said Work/Deliverable, including all copyrights and other intellectual property rights. City shall have the right to review any Subcontractor agreement for compliance with this provision.

**8.6 Publication Design.** Professional may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

**8.7 Intellectual Property Warranty and Indemnification.** Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Consultant further agrees to indemnify and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any

third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this contract, City shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

**8.8 Enforcement Costs.** The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorney's fees.

11. Article IX be added as follows:

## ARTICLE IX

### MISCELLANEOUS

**9.1 Notices.** In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: Mr. Michael Marks, 9485 Aero Drive, MS 18, San Diego, CA. 92123 and notice to the Consultant shall be addressed to: Ms. Kristie Witter, 9444 Farnham Street, Suite 300, San Diego, CA. 92123.

**9.2 Headings.** All article headings are for convenience only and shall not affect the interpretation of this Agreement.

**9.3 Non-Assignment.** The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

**9.4 Independent Contractors.** The Consultant and any Subcontractors employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Professional Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

**9.5 Consultant and Subcontractor Principals for Professional Services.** It is understood that this Agreement is for unique Consultant Services. Accordingly, performance of Professional Services on the Project may not be delegated to other members of the Consultant's organization or to Subcontractors without the prior written consent of the City. It is mutually agreed that the members of the Project Team are the principal persons responsible for

delivery of all Professional Services and may not be removed from the Project without the City's prior written approval. Removal of any member of the Project Team with out notice and approval by the City vide may be considered a default of the terms and conditions of this Agreement by the Consultant. In the event any member of the Project Team becomes unavailable for any reason, the City must be consulted as to any replacement. If the City does not approve of a proposed replacement, the City may terminate this Agreement pursuant to section 2.6 of this Agreement. Further, the City reserves the right, after consultation with the Consultant, to require any of the Consultant's employees or agents to be removed from the Project.

**9.6 Additional Consultants or Contractors.** The City reserves the right to employ, at its own expense, such additional Consultants or contractors as the City deems necessary to perform work or to provide the Professional Services on the Project.

**9.7 Employment of City Staff.** This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or Mayor in connection with the selection of the Consultant.

**9.8 Covenants and Conditions.** All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant, shall be deemed to be both covenants and conditions.

**9.9 Compliance with Controlling Law.** The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720 relating to the payment of prevailing wages during the design and preconstruction phases of a project, including inspection and land surveying work . In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

**9.10 Jurisdiction and Attorney Fees.** The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.

**9.11 Successors in Interest.** This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

**9.12 Integration.** This Agreement and the Exhibits and references incorporated

into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

**9.13 Counterparts.** This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

**9.14 No Waiver.** No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

**9.15 Severability.** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

**9.16 Municipal Powers.** Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

**9.17 Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

**9.18 Conflicts Between Terms.** If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

**9.19 Consultant Evaluation.** City will evaluate Consultant's performance of Professional Services on the Project using the Consultant Evaluation Form (Exhibit H).

**9.20 Exhibits Incorporated.** All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

**9.21 Survival of Obligations.** All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive, completion and acceptance of the Professional Services and termination or completion of the Agreement.

**9.22 Vendor Registration.** All consultants wishing to conduct business with the City of San Diego, or those intending to compete for City contracts, must submit a completed Vendor Registration Form (Exhibit I) to the City of San Diego's Purchasing & Contracting Department. This form must be received by the City prior to competing for or being awarded any contracts.

12. That Exhibit B.1, Compensation Schedule and Exhibit C, Schedule C-1,1, Consultant Labor Rates, be deleted in its entirety and replaced with Exhibit B (Compensation and Fee Schedule) a copy of which is attached hereto and incorporated herein by this reference.

13. That Exhibit D.1, Time Schedule and Exhibit D, Anticipating Staffing Plan, be deleted in its entirety and replaced with Exhibit C (Time Schedule), a copy of which is attached hereto and incorporated herein by this reference.

14. That Exhibit E.1, Equal Opportunity Contracting Program Consultant Requirements, be deleted in its entirety and replaced with Exhibit D (City's Equal Opportunity Contracting Program Consultant Requirements), a copy of which is attached hereto and incorporated herein by this reference.

15. The following attachments are incorporated herein by reference as follows: Exhibit E (Consultant Certification for a Drug-Free Workplace), Exhibit F (Determination Form), Exhibit G (City Council Green Building Policy 900-14), Exhibit H (Consultant Evaluation Form), Exhibit I (Vendor Registration Form).

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16. The Parties agree that as modified by the First Amendment, Second Amendment and this Third Amendment to the Agreement represents the entire understanding of the Consultant and the City and affects only those paragraphs referred to, and all other terms and conditions of the Agreement remain in full force and effect.

*The remainder of this page has been intentionally left blank.*

IN WITNESS WHEREOF, this Third Amendment to the Agreement between the City of San Diego and MWH Americas, Inc. is executed by the City of San Diego acting by and through its Mayor, or his designee, pursuant to Ordinance No. \_\_\_\_\_ authorizing such execution, and by Consultant.

THE CITY OF SAN DIEGO  
Mayor or Designee

By: \_\_\_\_\_  
Jay Goldstone  
Chief Operating Officer

MWH AMERICAS, INC.  
By: \_\_\_\_\_  
Richard D. Plecker  
Vice President

Date: 11-20-08

I HEREBY APPROVE the form and legality of the foregoing Amendment on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

JAN I. GOLDSMITH, City Attorney

By: \_\_\_\_\_  
Mark M. Mercer  
Deputy City Attorney

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CONSULTANT AGREEMENT EXHIBITS

- Exhibit A - Scope of Services
  - Exhibit B - Compensation and Fee Schedule
  - Exhibit C - Time Schedule
  - Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements
    - (AA) Work Force Report
    - (BB) Subcontractors List
    - (CC) Contract Activity Report
  - Exhibit E - Consultant Certification for a Drug-Free Workplace
  - Exhibit F - Determination Form
  - Exhibit G - City Council Green Building Policy 900-14
  - Exhibit H - Consultant Evaluation Form
  - Exhibit I - Vendor Registration Form
-

## Exhibit A-1

## SCOPE OF SERVICES

MIRAMAR WATER TREATMENT PLANT  
CONSTRUCTION MANAGEMENT SERVICES

## PROJECT DESCRIPTION

This contract amendment is for the construction management, monitoring, and inspection services relating to the proposed expansion, upgrade and repair of the existing Miramar Water Treatment Plant (WTP). The proposed construction and schedule is outlined below for Amendment 3.

The Miramar WTP construction contract Amendment No. 3 will consist of completion of the Miramar WTP Upgrade & Expansion projects Contract B (New Flocculation/Sedimentation Basins); Contract C (Ozone Equipment) and Contract D (Paving/Landscaping).

The present schedule for the remaining Miramar WTP Upgrade & Expansion projects and additional contract work for Phase 4 is estimated as follows:

1. Miramar WTP Contract B (Flocculation/Sedimentation Basins).  
The construction began in November 2007, and is expected to be complete in December 2009.
2. Miramar WTP Contract C (Ozone Equipment).  
The construction began in May 2008, and is expected to be complete in March 2010.
3. Miramar WTP Contract D (Paving/Landscaping).  
Current schedule is projected from July 1 2011 to June 30 2012.

For preparation of this Scope of Services, the following information was used:

During the construction period for Amendment 3, the City will provide field offices for Construction Manager's (CM) staff. The field office will be furnished and equipped by the CM as required for performance of the scope of services.

City will provide all required testing. The CM will coordinate testing services and insure all testing is performed for all areas of construction.

The level of effort proposed in Amendment 3 – Schedule C is considered reasonable for a project of this scope and magnitude. Should factors beyond the control of CM, such as severe weather, labor strikes, and/or contractor workmanship deficiencies, require

additional effort, the CM, in the absence of an emergency, shall identify the additional effort required and obtain City approval in writing prior to the expenditure of the effort.

The responsibilities of City staff will include approval of contractor payments, approval of changes to the construction contract, authorization of extra work by the contractor as needed to avoid or minimize delays due to unforeseen conditions and insuring Consultant performance in accordance with this agreement.

## II. SCOPE OF WORK

Consultant shall perform the services for the Miramar Water Treatment Plant Upgrade and Expansion Project identified in Tasks 1 and 2 (below) of this Scope of Construction Management Services, which include Construction Management, Field Engineering, Administration, and Inspection; and Additional Services to be performed upon written notification of the City. The Consultant shall review and conform to the requirements of the Field Engineering's Requirements.

### **TASK 1: CONSTRUCTION MANAGEMENT, FIELD ENGINEERING, ADMINISTRATION AND INSPECTION**

Services provided under this task will be performed or led primarily by the Construction Manager, Resident Engineer, Field Office Engineer, Inspector, specialty sub-consultant or administrative assistant. Roles and responsibilities of the MWH team are listed as follows:

#### MWH Office Manager

- Authorize the commitment of MWH project resources.
- Approve all MWH contract requisitions for procurement of services.

#### Principal In Charge

The Principal In Charge (PIC) will provide an independent focus on quality throughout the Project. Responsibilities of the PIC include:

- Plan, direct and control the QA program for the Project.
- Develop schedule for audits.
- Perform audits to verify that quality procedures are being followed and the level of quality of the work being performed by MWH and its subconsultants is satisfactory.
- Participate as MWH's Executive Committee representative with the CITY and Contractor.

#### Construction Manager

The Construction Manager (CM) has the Construction Management Services (CMS) responsibility for execution of the Project as well as being the onsite representative for the City. The CM may delegate certain day-to-day activities

and responsibilities to subordinates; however, the CM remains accountable for the CMS. The CM plans, organizes, and directs construction management aspects and phases of the Project. Additionally, the CM is responsible for monitoring and evaluating the quality, cost and schedule performance of the Contractor and monitoring that the construction activities are being performed in conformance with the contract documents, codes, and industry standards. The CM serves as the single point of contact with the Contractor and has the following responsibilities:

- Administrate MWH's safety and health plan.
- Monitor that Project activities are conducted in accordance with the contract, MWH, legal, environmental and Owner requirements.
- Provide Owner and MWH management with monthly project status reports.
- Manage the field office engineering and inspection staff responsible for the day-to-day monitoring and reporting of the construction project activities.
- Provide interfaces with City of San Diego's (City) operations personnel, Contractors, and vendors supporting construction activities.
- Manage project resources and teams, including subcontractors, to accomplish Project objectives and to verify that quality services are rendered. Review staffing levels and needs monthly with City. Adjust staff levels as agreed.
- Verify that responses to Contractor submittals, RFI's, and other documents are returned in a timely manner.
- Provide coordination between the Contractor and the Design Engineer for RFIs and plan clarifications.
- Prepare and/or review all correspondence with the Contractor. Provide advice to City for action and implement agreed action.
- Conduct weekly progress meetings with the Contractor, CITY, Design Engineer, and subcontractor representatives.
- Provide the day-to-day administration of the contract for the construction project, including review and comment on Contractor application of payment, change order requests and work change directives, and construction schedule updates.
- Participate in final inspection and issue certificate of completion.
- Assist CITY with permitting.
- Conduct constructability reviews as requested by the City.
- Conduct pre-construction conferences.
- Evaluate claims submitted by the Contractor in a timely manner and respond.
- Coordinate the City's Equal Opportunity Contracting Program (EOCP) with the Contractor and City EOCP personnel.

- Coordinate contract close out with Design Engineer, City, and Contractor.
- Administrative change order management, scoping, and estimating efforts.
- Provide oversight and reporting with SWPPP, APCD, and RWQCB environment monitors to ensure compliance with contract.

When the CM is absent for short periods of time, the Resident Engineer will assume the temporary role and all responsibilities.

#### Resident Engineer

The Resident Engineer (RE) supports and advises the CM and supervises inspection staff. In the absence of the CM, the RE will perform the duties of the CM. The RE is responsible for the following:

- Manage and monitor the work of the Inspection Team to confirm the inspections are being performed and documented properly and consistently.
- Supervise the inspectors and assist in and perform some of the inspections.
- Prepare draft nonconformance reports and provide input to RFI's to the CM as appropriate.
- Verify and document the correction of construction deficiencies and non-conformance issues.
- Providing field input to the CM for contract administration tasks.
- Serve as main contact for Operations staff to coordinate construction activities, startup, and operation of newly constructed facilities.
- Coordinate warranty, O&M manual, and spare parts turn over with the CITY and Contractor.
- Review as-builts on a monthly basis.
- Coordinate training sessions with Operations and Maintenance personnel.
- Coordinate City field survey and material testing personnel.
- Prepare punchlists and coordinate final walk through with City personnel.

#### Startup Coordinator

The Startup Coordinator reports to the City Project Manager and the CM and provides as needed assistance to the CM and City Operations with MOPO and startup activities.

#### Lead Inspector

- Provide an overall, multi-disciplinary perspective of the inspection requirements.

- Review inspections and test reports.
- Coordinate resolution of quality issues.

#### Field Inspector

All field inspectors are directed by and report to the RE. Their responsibilities include the following:

- Perform daily surveillance inspection and documentation of the Contractor's work.
- Provide photo documentation for record purposes.
- Prepare daily inspection reports documenting construction activities and site conditions.
- Monitor and verify that the Contractor's work is being performed in accordance with the contract drawings, specifications, and the Contractor's Quality Control Program.
- Monitor and verify the types and quantity of materials stored by the Contractor.
- Monitor and verify the completion of construction activities and materials stored in order to support review of Contractor's pay application.
- Assist RE in preparation of punchlists.

#### Project Engineer

The Project Engineer (PE) reports to the CM, and responsibilities include the following:

- Manage the document control system for the Project to include receipt, control, distribution, filing, and retrieval of all documents and submittals.
- Establish and maintain Contractor change order, change request, non-conformance report, and RFI logs.
- Support the CM in performing Project administration tasks.
- Assist the CM in responding to concerns of the Contractor as applicable.
- Assist the CM in preparation of Change Orders and Field Orders.
- Maintain a set of as-built drawings.

#### Cost/Schedule Engineer

The Cost/Schedule Engineer reports to the CM, and responsibilities include the following:

- Review and evaluate the Construction Baseline Schedule and all monthly updates prepared by the Contractor. Evaluate critical path, identify inconsistencies and issues, and recommend acceptance or rejection.
- Document cash flow projections.

- Prepare a schedule analysis to review the impacts of each change order or work directive to MWH's Project and/or the Construction Project.
- Assist with preparation of cost estimates and evaluation as needed.

#### Administrative Assistant

The Administrative Assistant reports to the CM and responsibilities include the following:

- Maintain the project filing system.
- Process shop drawing submittals and route to the proper party.
- Maintain the field office.

### **1.1 PRE-CONSTRUCTION PHASE**

For any new construction contracts awarded under this amendment, a pre-construction phase may be warranted. The generalized breakdown of pre-construction phase activities would be as follows:

- Pre-Construction Conference
- Constructability Reviews/Site Constraints

#### **1.1.1 *Pre-Construction Conference***

- The CM will arrange and conduct a pre-construction conference to introduce project personnel, review administrative procedures, discuss environmental mitigation requirements, review coordination procedures, define contractual responsibilities, and review the scope of work. The meeting shall be attended by the CM and the CM staff, the City Project Manager, and City Staff as found appropriate by the City's Project Manager. The CM will advise the City of the functional roles, duties and responsibilities of the various construction management team members and their contractual relationships during the pre-construction conference.
- The CM will implement a project management plan during the pre-construction phase, integrating the Construction Management and Design team members into a coordinated functioning group.
- The CM will prepare and distribute a project manual that contains the team organization and roles, telephone numbers of project personnel, and all administrative and field procedures.
- The CM will arrange and attend a partnering workshop for each construction project, and perform workshop follow-ups as identified during the partnering workshop.

### **1.1.2 Constructability Review/Site Constraints**

The CM in association with the other team members will provide constructability reviews of the project during design as requested by City Staff. This may include review of all project drawings and specifications prior to release for bidding with purpose of analyzing and evaluating site restraints and construction related considerations. This will include recommendations for refining the physical requirements of the project necessary to meet project objectives, such as safety and security issues, access, contractor yard and equipment storage areas, emergency response planning and proactive evaluation of possible construction related problems.

The constructability analyses performed by the CM will address concurrent work presently planned and verify that the various project construction schedules are compatible without conflict with proposed master schedule. During this period, coordination procedures will be established with the City for monitoring of schedules. Project constructability issues impacting cost or schedule will be identified and resolution of issues to maintain the schedule will be implemented. City may authorize the Design Engineer to revise contract documents for identified constructability problems. The evaluation will include identification of long lead items and items that affect project completion or construction sequencing.

## **1.2 CONSTRUCTION PHASE**

This phase will begin the award of the construction contract or contracts to the lowest responsive, responsible bidder and end with acceptance of the project by the City. The Construction Phase of the Project Management Plan will include the following tasks to be performed by the CM:

### ***Planning and Scheduling***

- Pre-construction conference
- Planning and scheduling coordination
- Safety
- Construction schedule monitoring

### ***Contract Administration***

- Documentation and correspondence management
- Submittals/samples
- Progress payments
- As-built drawings
- Cash flow projections
- Requests for Information and Plan Certifications (Bulletins)
- Deviation Requests
- Extra Work processing and negotiations
- Status report of construction progress
- Weekly construction progress meetings

- Contract change orders and modifications
- Photo documentation
- Contract claims
- Environmental coordination and enforcement
- Coordination of equipment and services
- Coordination of testing and start-up
- Equal Opportunity Contracting Program monitoring

### ***Inspection and Quality Control***

- Inspection
- Documentation
- Construction Coordination

### ***Facilities Start-Up, Close-Out and Acceptance***

- Facilities Start-Up
- Contract Close-Out
- Contract Acceptance
- Final Report

## **1.2.1 PLANNING & SCHEDULING**

For any new construction contracts awarded under this amendment, pre-construction activities may be warranted, as described in this section.

### ***1.2.1.1 Pre-construction Conference***

Before the Notice to Proceed, the CM will meet jointly with the Contractor, appropriate City staff, Design Engineer and other involved entities to outline contract administration guidelines. Contractual roles and relationships reinforcing specific requirements for safety, security and access throughout the construction site will be discussed. At this meeting, the contractor will be supplied with a detailed procedures booklet prepared by the CM and approved by the City reflecting all administrative matters, lines of communication, correspondence, submittals, health and safety requirements, and progress payments.

### ***1.2.1.2 Planning and Scheduling Coordination***

The CM will review the contractor's initial construction schedule verifying compliance with project specifications and various milestone dates and implement schedule progress monitoring. The schedule activities will be cost loaded by the Contractor to develop cash flow data. The CM will prepare near terms schedules to assess and coordinate sequencing of construction of all concurrent construction contracts. The contractor's schedule of values will be reviewed and reconciled with a cost estimate prepared by Design Engineer and the CM. The schedule will become the approved project schedule which will constitute the benchmark for monitoring performance, assessment of delays and impact of changes.

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**1.2.1.3 Safety**

The CM shall perform its task in compliance with state and federal safety requirements, and shall assume sole and complete responsibility for the safety of its personnel during the project. To provide for the safety of its personnel, the CM will coordinate and cooperate with City/CIP Safety personnel. The CM shall comply with the City of San Diego Water Department Construction Safety Management Program (Exhibit G) within the agreement.

**1.2.1.4 Construction Schedule Monitoring**

The CM will review Contractor's as-planned schedule for conformance with the specifications and for reasonableness of activity duration, sequence, and cost loading; review schedule issues with the City; review work progress as compared to the Contractor's monthly schedule updates, and apprise City of any schedule deviations and recovery plans. The CM will also analyze the schedule to determine impact of change orders, weather, and others delays on overall project schedule, and negotiate time extensions due to changes, weather, and other delays.

The CM will monitor the overall construction progress as compared to the approved project schedule utilizing daily progress reports prepared by the CM staff. Slippages of any contract activities or milestones on the critical path and time sequence will be identified early so that corrective action may be taken, if possible, by the project management team. Schedule reports will be prepared by onsite staff members. Contractors will be required to re-evaluate the logic of their original schedule and resubmit revised planning should the original plan be ineffective or be deviated substantially there from or delays associated with non-performance. All contractor approved time extensions will be shown on the most current updated schedule. All delays, regardless of source, will be documented as to the nature and responsibilities and impact on the project progress. This evaluation will also include monitoring Design Engineer and other parties' performance on returning design modifications, RFI's and/or submittals to Contractor, which could affect the project completion date.

**1.2.2 CONTRACT ADMINISTRATION**

**1.2.2.1 Document and Correspondence Management**

The CM will serve as the focal point for coordination among the Contractor, City, Design Engineer, and other parties. CM will receive Contractor correspondence; prepare and transmit responses; coordinate warranty services with Contractor and Owner through final completion and acceptance of the project; setup and maintain project files as part of the overall document tracking system as discussed in Section 1.2.2.2.

**1.2.2.2 Submittals Management/Samples**

A systematic tracking procedure will be established by the CM for timely processing of shop drawing submittals, RFI's and correspondence. This system will be coordinated

with the Contract and the Design Engineer. Unresolved items will be brought to the attention of the appropriate parties to prevent project delays.

The CM will receive, stamp, log, and distribute for review and approval typical and routine shop drawings and submittal which clearly meet contract document requirements. The CM will review Contractor submittal for completeness, general compliance with the specifications, coordination with other trades and for all noted deviations. Submittals will be returned to the contractor if not complete. The CM will also review and respond to administrative submittals such as the construction schedule. The Design Engineer will review engineering submittals. The critical shop drawings will be included in the approved project schedule so they can be monitored to avoid delays.

#### **1.2.2.3 Progress Payments**

The Contractor's approved schedule will include a list of cost-loaded activities approved by CM to prevent front-loading of project pay requests. The CM will review the contractor's initial cost breakdown for reasonableness and ease of monitoring. The Contractor's Monthly Progress payments will be based on percentage of completion of cost-loaded schedule items requested by the Contractor and verified by CM who will recommend payment to the City.

#### **1.2.2.4 As-Built Drawings**

The CM will monitor the Contractor's set of marked-up record drawings on a monthly basis. The CM will maintain a set of marked-up record drawings on a daily basis to be used for checking against Contractor's set of markups.

#### **1.2.2.5 Cash Flow Projections**

As requested by the City, cash flow report will be generated and updated monthly based on the latest approved Master Schedule. This information will be utilized for monitoring cash expenditures as necessary and forecasting remaining cash expenditures.

#### **1.2.2.6 Requests for Information and Plan Clarifications (Bulletins)**

All contractual correspondence flowing between the Design Engineer, City and the Contractor will be processed by the CM at the field construction office. The CM will review all RFI's for completeness and verify the question is reasonable and understandable and perform a technical review to determine if the RFI is addressed adequately in the contract documents. The CM will return the RFI if the question is unclear or, in the opinion of CM staff, the answer is contained in the contract documents. The CM will prepare responses to RFI's that are related to construction issues and transmit design-related RFI's to Design Engineer and track responses. Design Engineer responses will be routed through the CM to the Contractor. CM will conduct discussions and/or meetings with Contractor, Design Engineer, City and other parties as needed to resolve RFI's. All responses will be monitored with suspense

action dates and follow-up procedures implemented to ensure timely action by all parties to project issues. Should clarifications result in changes to the project, the change orders process will be implemented to provide a contract modification or make a determination that the work is included in the original contract. The CM will consult with Design Engineer for issues of design intent and or equal determinations prior to responding to the Contractor. The City will make final decision on disputed items. Deviation requests will be identified by CM and administered accordingly.

**1.2.2.7 NOT USED**

**1.2.2.8 Weekly Construction Progress Meetings**

The CM will conduct weekly progress meetings with Contractor, Design Engineer, and subcontractor representatives to discuss status of the work and short term work activities planned by the contractor. The CM will schedule and conduct MOPO meetings for planning, sequencing, and organizing the required plant shut downs. The CM will provide notice to and coordination with Water Operations and Maintenance personnel on all aspects of any plant shut down. The CM will request the Contractor and the City of San Diego to submit agenda items for the weekly progress meetings. Using the proposed agenda items, the CM will prepare the meeting agendas and minutes and distribute to meeting attendees. The CM will ask for concurrence of the previous week's minutes or ask for suggested corrections. Minutes will then be filed as approved or amended.

Each meeting will cover site safety, construction progress, job problems, actions requiring clarification of design intent, ambiguities in contract documents, scheduled testing, and other key issues. At each meeting the CM will present the current status of the construction schedule and any delays or changes to that schedule, explanations for those delays or changes, and will cover appropriate corrective action recommendations. Action monitoring will be implemented to ensure compliance and timely response by all parties. Minutes will be prepared and distributed to the City, Contractor and the Design Engineer.

Minutes will include photos of significant construction events and photos of construction progress.

**1.2.2.9 Contract Change Order Management, Scoping and Estimating**

The CM will apply its skill and experience to minimize the impact of change orders during construction through the timely processing of construction documents; minimizing changes arising from constructive acceleration; working with the Contractor to minimize the impact of field conditions that could result in added work; developing a screening process for change requests initiated by the City or Design Consultant. The CM will develop a process for initiation, negotiation, approval, payment, and documentation of change orders, and perform change order administration, including

issuing proposed change orders to contractor, maintaining logs of proposed and approved change orders, receiving change order quotations from Contractor, negotiating change order costs and time extensions, processing final negotiated change orders, and incorporating approved change orders into progress payment schedule of values. This procedure will be reviewed and approved by the City. In addition, the CM will perform quality and cost analysis as required for negotiation of change orders, evaluate all schedule impacts of changes, and will coordinate with the City as required for processing for change orders.

All contract modifications must be issued through the City's Construction Manager. Approvals and/or denials will be returned through the CM to the Contractor.

The CM will have no authority to make changes or make modifications to the contract documents other than provided by the contract documents. Any Contractor requested changes will be reviewed by the CM, Design Engineer and City to determine if the requested change is acceptable. A favorable decision will trigger the change order process for additional costs or credits. All time and materials change orders will be monitored and verified with daily reports.

The CM will prepare independent cost estimates of Change Orders with an estimated cost of over \$20,000 and other Change Orders as requested by the City.

#### **1.2.2.10 Video/Photo Documentation**

Still photo documentation will be provided regularly through the project for general record purposes. The photos will be compiled in a log and key photos included in monthly reporting. The still photography will be supplemented with video taken at appropriate times to correspond with construction progress for the entire construction site. Every attempt will be made to utilize videotaping to document special conditions, safety violations or accidents.

The CM will choose three locations (with City PM approval) for a chronological photo documentation of the construction. The CM will take a photo at thirty (30) day intervals at each of these locations with camera pointing at the same aspect for each photo to show a chronological photo record of the construction.

The photographic library will be documented and filed noting date of photo, subject, name of photographer, and will be filed appropriately in albums with orientation for still photos and labeled tapes for video. The chronological photo documentation will be a separate library and sent to the PM each month. The above photo and video library will suffice for the record with a number and type of photos taken to substantiate claim or changed conditions encountered during the course of the contract.

#### **1.2.2.11 Contract Claims Management**

The CM will apply its skill and experience to minimize claims during construction by maintaining a positive working relationship with Contractor; assisting in identifying and resolving claims for additional compensation early and equitably; managing and timely

responding to project issues and applying procedures for enabling work to proceed in the event difference arise over the responsibility for, or cost of, extra work. CM will also analyze claims for additional compensation submitted during construction, prepare responses, perform claims resolution, track claims status, and inform City on the status of claims.

The CM will evaluate all claims submitted by the Construction Contractor. The documentation of claim issues will be included in the management information systems so as to provide the CM with detailed data for resolving a claim. The construction manager will assess whether the claim is merited or not and make recommendations on resolution or denial of Contractor claim in accordance with the terms on the contract.

All contracts modifications, delays and/or disputes, which reflect possible Contract claims, will be identified as soon as claim indicators are noted. A separate claim file will be provided for each disputed issue and effects or possible effects related to the claim are to be documented and placed in the file to provide claims recommendations to the City. The City will be notified immediately of a potential claim and resolution in a timely manner.

**1.2.2.12 Environmental Coordination**

The CM will coordinate with environmental monitors and coordinators in an effort to meet specified mitigation requirements and to minimize the impact of mitigation measures on the construction cost and schedule. CM will monitor Contractor's activities to ensure compliance with Contractor's contract obligations.

**1.2.2.13 Coordination of Equipment and Services**

The CM will develop lists and monitor status of manufacturer's certificates, services, spare parts and manuals; receive log and file manufacturer's certificates; receive log, and turn over spare parts to City; and receive, log and distribute manufacturer's O&M manuals for review and acceptance. The CM is to coordinate manufacturer's training services with City operations and maintenance staff.

**1.2.2.14 Coordination of Testing and Start-Up**

The CM is to coordinate testing and start-up, including efforts by the Contractor, manufacturer, Design Consultant, and City's Operations and Maintenance personnel. The CM will receive test reports from Contractor and transmit to the City for review and acceptance.

**1.2.2.15 Miramar Water Treatment Plant Construction Equal Opportunity Contracting Program Monitoring**

The CM will collect, review and analyze the Contractor's and Subcontractor's Monthly Utilization Report Forms (D-1(3)) and follow-up, as needed, with Contractor's failing to submit reports and/or submit incomplete reports. Notify City EOCP of any deficiencies in Form D-1(3). Provide technical assistance to Contractors with consistent reporting

problems. Prepare monthly reports summarizing total hours worked by trade, gender and ethnic group, including apprentice and journey hours. Two copies of this report shall be forwarded to both E&CP and City EOCP staff by the end of the month following the reporting period. Present report findings to the Public Works Advisory Committee and Subcommittees as directed by City staff. Provide staff support to the Public Works Advisory Committee.

The CM will collect, review and analyze Monthly Invoicing Report forms for all Contractors and conduct follow-up, as needed, with Contractors with consistent reporting problems. The CM will verify Subcontractor status and payments in coordination with City EOCP staff. Provide technical assistance to Contractors with consistent reporting problems. Prepare monthly reports summarizing payment information, substitutions, and other relevant information. Two copies of this report shall be forwarded to both E&CP by the end of the month following the reporting period. Provide additional EOCP services as directed by City EOCP staff.

### **1.2.3 INSPECTION AND QUALITY CONTROL**

#### **1.2.3.1 *Inspection***

Experienced construction inspectors and/or specialty sub-consultants provided by the CM will provide resident civil, structural, mechanical, electrical inspection for day-to-day on-the-job observation of the work in progress. The CM shall make reasonable efforts to guard the City against defects and deficiencies in the work of the contractor and to make reasonable efforts to determine that provisions of the contract documents are being fulfilled. The CM will also coordinate and conduct final inspection. Factory inspections will be performed by the CM team as required. The CM will also perform specialty inspections requiring ICBO certification.

#### **1.2.3.2 *Documentation***

The CM team will prepare daily inspection reports documenting observed construction activities and job site conditions, including weather conditions, contractor manpower and equipment, work performed, extra work being performed including equipment and manpower, materials delivered and used, testing performed, and site visitors. The CM team shall also determine work quantities to be paid; coordinate, witness, and record leakage tests for piping and water bearing structures; take progress photographs and bind label them; mark up a field blue line set of drawings to incorporate contractor record drawing markups; and prepare punch lists. All documentation shall be made available to City.

#### **1.2.3.3 *Construction Coordination***

The CM shall coordinate the activities of field survey, materials testing firms, building department inspections and other services as required. The CM shall also assist with

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equipment testing and start-up and other matters relating to construction of the project. The CM will verify that the horizontal and vertical controls identified by the contract documents are, in fact, available for use by the Contractor for layout of his work. All line and grade survey and as-built documentation required for construction will be the responsibility of the Construction Contractor who will utilize base lines and benchmarks identified in contract documents. The CM will coordinate with the project's survey subconsultant for verification. The CM will witness the testing of materials and equipment and verify that the testing is done in accordance with the contract documents and that adequate testing has been performed in all areas of the project to accurately monitor the Contractor's quality of work.

#### **1.2.4 FACILITIES START-UP, CLOSE-OUT AND ACCEPTANCE**

##### **1.2.4.1 *Facilities Start-Up***

The CM will coordinate all start-up activities with the Design Engineer including operator training for the operating entity. The CM will coordinate the submittal and approval of O&M manuals. In addition, the CM will witness and document performance of necessary remedial work.

##### **1.2.4.2 *Contract Close-out***

The following steps will be taken to reach a finalized contract:

When the Contractor notifies the CM that all work required by the contract documents has been completed, a punch list will be compiled by the CM and transmitted to the Contractor. A copy will be provided to the City.

Upon correction of the deficiencies listed on the punch list by the Contractor, and when the Contractor's work is deemed complete, a transfer and acceptance inspection will be scheduled and conducted.

The CM, Design Engineer, City, and Contractor will attend the final walk-through. If additional discrepancies are noted during the final inspection, they will be forwarded in writing to the Contractor. The Contractor will be required to request this final inspection in writing. Upon completion of these additional items, if in the opinion of the CM, they are in fact completed, a second formal walk-through inspection will be scheduled with all interested parties.

##### **1.2.4.3 *Contract Acceptance***

Once the City accepts any parts of the construction for purposes of beneficial occupancy, or upon final completion, project completion will be formalized by documentation stating that the City accepts the project on the date accepted and that the warranty period has started as of that date.

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The CM will transit to City all required guarantees, affidavits, releases, bonds and waivers requires by contract documents and project change orders during construction. These will be presented in a format acceptable to City. CM will also turn over all keys, manuals, record drawings and maintenance stocks along with complete project correspondence files, videotaping and photo albums.

All unsettled claims will be evaluated and a recommendation for validity and compensability will be given to the city. At the end of contract, adjustments in contract amount for settlement of disputes will be specifically indicated in a final change order issued by City.

#### **1.2.4.4 Final Construction Management Report**

The CM will compile a project final Construction Report summarizing the project history, major problems, contractor claims and recommendations for more cost-effective procedures for future projects. The CM report will also include as an appendix Construction Record Drawings. All files and correspondence will be turned over to City including all hard copy data and computer discs.

#### **TASK 2: ADDITIONAL SERVICES**

Due to the uncertain nature of the necessity for additional services, an allowance has been established by the City for their sole discretionary use. The CM shall not perform nor be compensated for any work associated with this subtask without the written authorization of the City. Such authorization may be given subsequent to a determination during the course of the project of the need for an additional service, a definition of the scope and cost of the same mutually agreed upon by the City and the Consultant.

Additional services comprise those items of work which could be required contingent upon certain occurrences which may or may not take place during the course of the construction project. Additional services may include, but not be limited to, the items listed below.

- 2.1 Assistance to the City in arbitration or litigation arising from the development or construction of the project.
- 2.2 Assistance to the City for securing permits necessary for construction of the project. Assist in obtaining building permits and special permits for permanent improvements, excluding permits required to be obtained directly by various Contractors. Verify that the City has paid applicable fees and assessment. Assist in obtaining approvals from authorities having jurisdiction over the project.
- 2.3 Services related to investigations, appraisals or evaluations of existing conditions, facilities or equipment, or verification of the accuracy of existing drawings or other information furnished by the City.

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- 2.4 Services related to city-furnished furniture, furnishings and equipment which are not a part of the project.
- 2.5 Services for tenant or rental spaces.
- 2.6 Consultation on replacement of work damaged by fire or other cause during construction and furnishing services in conjunction with the replacement of such work.
- 2.7 Services made necessary by the default of a contractor.
- 2.8 Preparing to serve or services as a witness in connection with any public hearing, arbitration proceeding or legal proceeding.
- 2.9 Inspections of, services related to, the project after the end of the construction work.
- 2.10 Consultation or other services on matters not otherwise provided in this agreement.
- 2.11 Services related to design and design engineering.
- 2.12 Economic outreach/public relations.
- 2.13 Coordinate community information effort.
- 2.14 Acoustical engineering services.
- 2.15 Paleontology services.
- 2.16 Others applicable to the Miramar WTP.

---- End of Scope of Required Services ----

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**Exhibit B  
COMPENSATION SCHEDULE  
(Page 1 of 4)**

Authorized	Authorized	Additional Services		
Original Agreement	\$ 9,713,157.00	\$ 672,921.00	\$	10,386,078.00
Amendment 1	\$ -	\$ -	\$	-
Amendment 2	\$ 522,921.00	\$ (522,921.00)	\$	-
Amendment 3	\$ 3,350,000.00	\$ 150,000.00	\$	3,500,000.00
<b>Total</b>	<u>\$ 13,586,078.00</u>	<u>\$ 300,000.00</u>	\$	13,886,078.00

Amendment 3 Summary	FY	FY	FY	FY
Project	2009	2010	2011	2012
MWTP B	\$534,550	\$1,018,764		
MWTP C	\$534,550	\$1,018,763		
MWTP D				\$243,373
Additional Services	\$75,000	\$75,000		
<b>Totals</b>	<b>\$1,144,101</b>	<b>\$2,112,527</b>		<b>\$243,373</b>
				<b>\$3,500,000</b>

Contract B - (January 1, 2009 through April 2010)  
 Contract C - (January 1, 2009 through June 30, 2010)  
 Contract D - (July 1, 2011 through June 30, 2012)

**EXHIBIT B**  
**Schedule B-1**  
**Consultant Labor Rates**  
**(Page 2 of 4)**

Classification	Name	Multiplier	Hourly Rate	Hourly Billing Rate
Senior Company Officer	See Note	3.00	\$85.00	\$255.00
Principal Professional	Kristle Witter	3.00	\$65.54	\$196.62
Principal Professional	Jamie Burroia	3.00	\$74.22	\$222.66
Principal Professional	Rick Wright	3.00	\$60.10	\$180.30
Construction Manager	Glenn Vita	2.67	\$67.33	\$179.77
Resident Engineer	Michelle Berens	2.67	\$44.43	\$118.63
Resident Engineer	Wayne McFadden	2.67	\$44.13	\$117.83
Senior Professional	Ryan Gordon	3.00	\$38.37	\$115.11
Project Coordinator	Nancy Sampson	3.00	\$34.10	\$102.30
Administrator	Morine Watson	3.00	\$19.40	\$58.20

Note: Where staff names are not indicated, MWH's average salary is provided.

Field multiplier is 2.67 and office multiplier is 3.00.

Annual adjustments in salary hourly rate may not occur up to 4% without prior written City approval.

Annual salary adjustment will occur on or after March 1 each year.

Field multiplier applies to people assigned to the Miramar WTP construction site

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**EXHIBIT C**  
**TIME SCHEDULE**  
**(Page 1 of 1)**

**Contract B - (January 1, 2009 through April 2010)**  
**Contract C - (January 1, 2009 through June 30, 2010)**  
**Contract D - (July 1, 2011 through June 30, 2012)**

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)  
CONTRACTOR REQUIREMENTS

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**I. City’s Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees and Subcontractors of professional service consultants doing business with the City. The City encourages its consultants to share this commitment. Prime consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer consulting opportunities to all eligible Subcontractors.

**II. Nondiscrimination in Contracting Ordinance.** All consultants and professional service providers doing business with the City, and their Subcontractors, must comply with requirements of the City’s *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.

A. Proposal Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, Proposer shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Proposer in a legal or administrative proceeding alleging that Proposer discriminated against its employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

B. Contract Language. The following language shall be included in contracts for City projects between the consultant and any Subcontractors, vendors, and suppliers:

Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Consultant shall provide equal opportunity for Subcontractors to participate in subconsulting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

- C. Compliance Investigations. Upon the City's request, Consultant agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance*, Municipal Code Sections 22.3501 through 22.3517. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

**III. Equal Employment Opportunity.** Consultants shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Consultants shall submit a *Work Force Report* or an *Equal Employment Opportunity (EEO) Plan* to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval.

- A. Work Force Report. If a *Work Force Report* (Attachment AA) is submitted, and an EOCP staff Work Force Analysis determines there are under representation when compared to County Labor Force Availability data, Consultant will be required to submit an *Equal Employment Opportunity Plan*.
- B. Equal Employment Opportunity Plan. If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:

1. The Consultant will maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the Consultant's employees are assigned to work;
2. A responsible official is designated to monitor all employment related activity to ensure the Consultant's EEO Policy is being carried out and to submit reports relating to EEO provisions;
3. Consultant disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;
4. The Consultant reviews, at least annually, all supervisor's adherence to and performance under the EEO Policy and maintains written documentation of these reviews;
5. The Consultant discusses its EEO Policy Statement with Subcontractors with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;
6. The Consultant documents and maintains a record of all bid solicitations and outreach efforts to and from Subcontractors, consultant associations and other business associations;
7. The Consultant disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;
8. The Consultant disseminates its EEO Policy to union and community organizations;
9. The Consultant provides immediate written notification to the City when any union referral process has impeded the Consultant's efforts to maintain its EEO Policy;
10. The Consultant maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;

11. The Consultant maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Consultant encourages all present employees, including people of color and women employees, to recruit others;
13. The Consultant maintains all employment selection process information with records of all tests and other selection criteria;
14. The Consultant develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Consultant's employment needs;
15. The Consultant conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;
16. The Consultant ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Consultant establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and
18. The Consultant is encouraged to participate in voluntary associations, which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Consultant is a member will be considered as being part of fulfilling these obligations, provided the Consultant actively participates.

**IV. Equal Opportunity Contracting.** Prime consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer contracting opportunities to all eligible Subcontractor. To support its Equal

Opportunity Contracting commitment, the City has established a voluntary *Subcontractor participation level*.

A. Subcontractor Participation Level

1. Projects valued at \$25,000 or more have a voluntary Subcontractor Participation Level goal of 15%. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE) or Other Business Enterprise (OBE) level.
2. While attainment of the 15% Subcontractor Participation Level goal is strictly voluntary, the City encourages diversity in your outreach and selection efforts. Historical data indicates that of the overall 15% goal, 25% to 30% Disadvantaged Business Enterprise (DBE) and 1% to 3% Disabled Veteran Business Enterprise (DVBE) participation is attainable. The remaining percentages may be allocated to Other Business Enterprises (OBE). Participation levels may be used as a tiebreaker in cases of an overall tie between two or more firms.

B. Contract Activity Reports. To permit monitoring of the successful Consultant's commitment to achieving compliance, *Contract Activity Reports* (Attachment CC) reflecting work performed by Subcontractors shall be submitted quarterly for any work covered under an executed contract.

V. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion.

- A. Proposers are required to submit the following information with their proposals:
1. Outreach Efforts. Description of Proposer's outreach efforts undertaken on this project to make subconsulting opportunities available to all interested and qualified firms.
  2. Past Participation Levels. Listing of Proposer's Subcontractor participation levels achieved on all private and public projects within the past three (3) years. Include name of project, type of project, value of project, Subcontractor firm's name, percentage of Subcontractor firm's participation, and identification of Subcontractor firm's ownership as a certified Small Business, Disadvantaged Business Enterprise, Disabled Veteran Business Enterprise, or Other Business Enterprise.

3. Equal Opportunity Employment. Listing of Proposer's strategies to recruit, hire, train and promote a diverse workforce. These efforts will be considered in conjunction with Proposer's *Workforce Report* as compared to the County's Labor Force Availability.
4. Community Activities. Listing of Proposer's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

B. Consultant selection panels will consider and evaluate the Proposer's demonstrated commitment to equal opportunity including the following factors:

1. Outreach Efforts. Proposer's outreach efforts undertaken and willingness to make meaningful subconsulting opportunities available to all interested and qualified firms on this project.
2. Past Participation Levels. Proposer's Subcontractor participation levels achieved on all private and public projects within the past three (3) years.
3. Equal Opportunity Employment. Proposer's use of productive strategies to successfully attain a diverse workforce as compared to the County's Labor Force Availability.
4. Community Activities. Proposer's current community activities.

VI. **List of Subcontractors.** Consultants are required to submit a *Subcontractor List* with their proposal.

A. Subcontractors List. The *Subcontractor List* (Attachment BB) shall indicate the Name and Address, Scope of Work, Percent of Total Proposed Contract Amount, Dollar Amount of Proposed Subcontract, Certification Status and Where Certified for each proposed Subcontractor.

1. Subcontractors must be named on the *Subcontractors List* if they receive more than one-half of one percent (0.5%) of the Prime Consultant's fee.

B. Commitment Letters. Proposer shall also submit Subcontractor *Commitment Letters* on Subcontractor's letterhead, no more than one page each, from all proposed Subcontractors to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

**VII. Definitions.** Certified "**Minority Business Enterprise**" (**MBE**) means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified "**Women Business Enterprise**" (**WBE**) means a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified "**Disadvantaged Business Enterprise**" (**DBE**) means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified "**Disabled Veteran Business Enterprise**" (**DVBE**) means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

"**Other Business Enterprise**" (**OBE**) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

**VIII. Certification.**

A. The City of San Diego is a signatory to a Memorandum of Understanding (MOU) with the California Department of Transportation (CALTRANS), and therefore has adopted a policy regarding certification of MBE/WBE/DBE/DVBE firms. As a result of the MOU, an MBE, WBE or DBE is certified as such by any of the following methods:

1. Current certification by the City of San Diego as MBE, WBE, or DBE;
2. Current certification by the State of California Department of Transportation (CALTRANS) as MBE, WBE or DBE;
3. Current MBE, WBE or DBE certification from any participating agency in the statewide certified pool of firms known as CALCERT.

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- B. DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business (916) 322-5060.

**IX. List of Attachments.**

- AA - *Work Force Report*
- BB - *Subcontractors List*
- CC - *Contract Activity Report*



City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
1010 Second Avenue • Suite 500 • San Diego, CA 92101
Phone: (619) 533-4464 • Fax: (619) 533-4474

WORK FORCE REPORT

ADMINISTRATIVE

The objective of the Equal Employment Opportunity Outreach Program, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law.

CONTRACTOR IDENTIFICATION

Type of Contractor: [ ] Construction [ ] Vendor/Supplier [ ] Financial Institution [ ] Lessee/Lessor
[ X ] Consultant [ ] Grant Recipient [ ] Insurance Company [ ] Other

Name of Company: MWH Americas, Inc.

AKA/DBA:

Address (Corporate Headquarters, where applicable): 300 Interlocken Crescent, Suite 200

City Broomfield County Broomfield State Colorado Zip 80021

Telephone Number: (303) 533-1900 FAX Number: (303) 533-1901

Name of Company CEO: Mr. Robert Uhlir

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 9444 Farnham Street, Suite 300

City San Diego County San Diego State California Zip 92123

Telephone Number: (858) 751-1200 FAX Number: (858) 751-1201

Type of Business: Engineering Type of License:

The Company has appointed: Alnia

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 370 Interlocken Blvd, Broomfield, CO 80021

Telephone Number: (303) 410-4088 FAX Number: (303) 410-4154

- [ X ] One San Diego County (or Most Local County) Work Force - Mandatory
[ ] Branch Work Force \*
[ ] Managing Office Work Force

Check the box above that applies to this WFR.

\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of MWH America, Inc.

(Firm Name)

San Diego, California hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 1 day of October 1, 2008.

Nancy L. Sampson (Authorized Signature)

Nancy L. Sampson (Print Authorized Signature)

000124

WORK FORCE REPORT -- NAME OF FIRM: MWH Americas, Inc.

DATE: October 1, 2008

OFFICE(S) or BRANCH(ES): San Diego

COUNTY: San Diego

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial											2	3		
Professional														
A&E, Science, Computer	1										13	3	2	
Technical											8	5		1
Sales														
Administrative Support				1								1		
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column	1			1							23	12	2	1
--------------------	---	--	--	---	--	--	--	--	--	--	----	----	---	---

Grand Total All Employees 40

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														



**CITY OF SAN DIEGO WORK FORCE REPORT – ADMINISTRATIVE**

**HISTORY**

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (Black, Hispanic, Asian, American Indian, Filipino) for each occupation. Currently, our CLFA data is taken from the 2000 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

**WORK FORCE & BRANCH WORK FORCE REPORTS**

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report.<sup>1</sup> By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county.<sup>2</sup> For example, if participation in a San Diego project is by work forces from San Diego County, Los Angeles County and Sacramento County, we will ask for separate Work Force Reports representing the work forces of

your firm from each of the three counties.<sup>1,2</sup> On the other hand, if the project will be accomplished completely outside of San Diego, we ask for a Work Force Report from the county or counties where the work will be accomplished.<sup>2</sup>

**MANAGING OFFICE WORK FORCE**

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report.<sup>1,3</sup> In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.<sup>3</sup>

**TYPES OF WORK FORCE REPORTS:**

Please note, throughout the preceding text of this page, the superscript numbers one<sup>1</sup>, two<sup>2</sup> & three<sup>3</sup>. These numbers coincide with the types of work force report required in the example. See below:

- <sup>1</sup> One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- <sup>2</sup> Branch Work Force \*
- <sup>3</sup> Managing Office Work Force

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county*

**Exhibit: Work Force Report Job categories**

Refer to this table when completing your firm's Work Force Report form(s).

**Management & Financial**

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

**Professional**

Art and Design Workers
Counselors, Social Workers, and Other Community and Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists

000127



purchasing@sandiego.gov  
05/22/2008 09:05 AM

To nancy.l.sampson@mwhglobal.com  
cc  
bcc  
Subject City of San Diego Contractor/Vendor Registration Confirmation

This email confirms that the information you provided about your company has been entered into the City of San Diego Vendor Registration Database. Before you can access or update your information, you will need a City Customer Account. If you do not already have a City Customer Account, you may create one by going to the [Contractor/Vendor Registration page](#) and clicking on the Create Customer Account button under STEP 1: Obtain a Username and Password. After creating your account, you will receive a Customer Account Confirmation email which will require you to click on a link to activate your account. You will be able to return to the Contractor/Vendor Registration page and login to access your information.

Your registration shall remain valid for two years from today's date: 05/22/2008

All prospective bidders, as well as existing contractors and vendors, are required to complete and submit the online Contractor/Vendor Registration form. Registration will be a prerequisite for the following:

- Submission of future prime contract or subcontract bids for City projects;
- Acceptance of all future vendor and contractor bills and invoices submitted to the City; and
- Award of all future contracts issued by the City.

#### **Public Information Disclaimer**

**Your Contractor/Vendor information is now part of the public record. Limited information will be available in an online search to the general public and additional information will be available in an online search to other registered contractors/vendors.**

#### **E-Mail Notification of BID Opportunities**

If you checked YES to be notified via E-mail of bid opportunities and at any point in time you no longer wish to receive notifications via E-mail, [login](#) to access your SAVED online Contractor/Vendor Registration Form and check NO next to the option at the bottom of the form, "Do you want to be notified via E-mail of BID opportunities?".

#### **Updating Your Contractor/Vendor Registration Information**

You can make any necessary changes to your registration information by simply logging in and updating your SAVED online Contractor/Vendor Registration form information at the login link above.

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Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

**Architecture & Engineering, Science, Computer**

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

**Technical**

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

**Sales**

Other Sales and Related Workers
Retail Sales Workers
Sales Representatives, Services
Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

**Administrative Support**

Financial Clerks
Information and Record Clerks
Legal Support Workers
Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

**Services**

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations

Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

**Crafts**

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics, Installers, and Repairers
Woodworkers

**Operative Workers**

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

**Transportation**

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material Moving Workers
Water Transportation Workers

**Laborers**

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds Cleaning and Maintenance Workers
Supervisors, Farming, Fishing, and Forestry Workers

## SUBCONSULTANTS LIST

## INFORMATION REGARDING SUBCONSULTANTS PARTICIPATION:

1. Subconsultant's List shall include name and complete address of all Subconsultants who will receive more than one half of one percent (0.5%) of the Prime Consultant's fee.
2. Proposer shall also submit subconsultant commitment letters on subconsultant's letterhead, no more than one page each, from subconsultants listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.
3. Subconsultants shall be used for scope of work listed. No changes to this Subconsultants List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONSULTANTS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED
CPM Construction, Inc. Moqueem Ansari P.O. Box 1521 Walnut, CA 91788	Scheduling & Estimating Services	6.3%	\$855,000	MBE	State of Ca, SBE
Richard Brady & Associates Richard Brady 3710 Ruffin Road San Diego, CA 92123	Construction Services	25.0%	3,400,000	DBE	City of San Diego
Testing Services and Inspection 3030 Main Street San Diego, CA 92113	Welding/Steel Inspection	2.4%	325,000	MBE	Caltrans
Winstead & Company 3940 Seventh Avenue Suite 210 San Diego, CA 92103	EOCP Monitoring	.004%	\$49,128	WBE	Caltrans

\*For information only. As appropriate, Proposer shall identify Subconsultants as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

\*\*For information only. As appropriate, Proposer shall indicate if Subconsultant is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

## SUBCONSULTANTS LIST

## INFORMATION REGARDING SUBCONSULTANTS PARTICIPATION:

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3. Subconsultants shall be used for scope of work listed. No changes to this Subconsultants List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONSULTANTS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED
CPM Construction, Inc. Moqueem Ansari P.O. Box 1521 Walnut, CA 91788	Scheduling & Estimating Services	4.2%	\$140,000	MBE	State of Ca, SBE
Richard Brady & Associates Richard Brady 3710 Ruffin Road San Diego, CA 92123	Construction Services	23.9%	\$800,000	DBE	City of San Diego
Testing Services and Inspection 3030 Main Street San Diego, CA 92113	Welding/Steel Inspection	3.0%	\$100,000	MBE	Caltrans

\*For information only. As appropriate, Proposer shall identify Subconsultants as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

\*\*For information only. As appropriate, Proposer shall indicate if Subconsultant is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

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City of San Diego, Equal Opportunity Contracting Program

SUBCONSULTANT PARTICIPATION

Date: 10/01/08

PRIME: MWH Americas, Inc.

Project: Construction Management Services for the Miramar Water Treatment Plant Upgrade and Expansion Amendment No. 3

Contract Amount: \$3,500,000.00

Anticipated level of Participation; Phase Funding 01/01/09 – 06/01/2013

Firm Name	Amount	Percent of Amount	MBE/WBE/D BE/ DVBE/OBE	Where Certified
Richard Brady & Associates	\$800,000.00	23.9%	DBE	City of San Diego
CPM Construction	\$140,000.00	4.2%	MBE	State of CA - SBE
Testing Services & Inspection	\$100,000.00	3.0%	MBE	Caltrans

Total amount committed to Certified Businesses: \$1,040,000.00 Percent: 31.0%

Total amount paid to Other Businesses (not certified): \$0.00 Percent: 0%

Percentage is calculated based on \$3,350,000 in base authorization.

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City of San Diego, Equal Opportunity Contracting Program

SUBCONSULTANT PARTICIPATION

Date: 10/08/08

PRIME: MWH Americas, Inc.

Project: Construction Management Services for the Miramar Water Treatment Plant Upgrade and Expansion

Contract Amount: \$10,386,078.00

Show subconsultant amount paid to-date:

Firm Name	Amount	Percent of Amount	MBE/WBE/D BE/DVBE/OBE	Where Certified
Richard Brady & Associates	\$2,569,887.34	24.7%	DBE	City of San Diego
CPM Construction	\$ 714,273.15	6.9%	MBE	State of CA - SBE
Winstead & Company	\$ 49,197.26	.05%	WBE	Caltrans
Testing Services & Inspection	\$ 216,482.09	2.1%	MBE	Caltrans
KPFF Consulting	\$ 21,000.58	.02%	N/A	N/A
Robert W. Hunt Company	\$ 17,330.99	.01%	N/A	N/A

Total amount paid to Certified Businesses: \$3,549,839.84 Percent: 34.2%

Total amount paid to Other Businesses (not certified): \$38,331.57 Percent: 0.4%



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EXHIBIT E

**DRUG-FREE WORKPLACE**

**ELECTRONIC FORM**

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EXHIBIT E

CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE

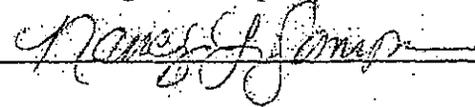
PROJECT TITLE: Miramar Water Treatment Plant Expansion and Upgrade Project

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

MWH Americas, Inc.

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subconsultants agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed



Printed Name Nancy L. Sampson

Title Project Coordinator

Date

10/17/08

**DETERMINATION FORM****INSTRUCTION SHEET****(Form CC-1671)**

Use the "Disclosure Determination for Consultant" form (CC-1671) to report the disclosure requirement for any consultant hired to provide services to the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction.

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency, either makes a governmental decision or serves in a staff capacity with the state or local government agency and in that capacity participates in making a governmental decision. For the complete definition of "consultant", refer to Government Code section 18701(a)(2). This section can be located at:

[http://www.fppc.ca.gov/index.html?ID=52&r\\_id=/legal/regs/18701.htm](http://www.fppc.ca.gov/index.html?ID=52&r_id=/legal/regs/18701.htm)

The "Disclosure Determination for Consultant" form is completed for all consultants under contract with the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction. Please follow the step-by-step directions:

1. List the department, board, commission or agency requesting the consultant service.
2. List the consulting company. If known, also list the individual(s) who will be providing the consultant services.
3. List the mailing address.
4. List all duties/responsibilities the consultant will have. This list will enable you to determine the disclosure requirement for the consultant.
5. Determine the consultant's disclosure category. Your consultant should be required to disclose only those economic interests which could potentially create a conflict of interest as he/she performs his/her contractual obligations. For ideas about possible disclosure categories, review those in your department's, board's, commission's or agency's conflict of interest code, available at:

[www.sandiego.gov/city-clerk/elections/eid/codes.shtml](http://www.sandiego.gov/city-clerk/elections/eid/codes.shtml)

Please fill out the entire "Disclosure Determination for Consultant" form, and have it signed by the appropriate authority. (Individuals with signing authority are described in your conflict of interest code as part of the disclosure requirement for Consultants.) Forward the original form to the City Clerk's Office, MS 2A.

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DETERMINATION FORM

CONFLICT OF INTEREST CODE:  
DETERMINATION OF APPLICABILITY TO CONSULTANT

Name of Consultant & Company: Glenn Vita, Michelle Berens, Wayne Mcfadden, MWH Americas, Inc.  
9444 Farnham Street  
San Diego, CA 92123

Consultant Duties: Construction Administration and Field Inspection. Contract duration through 2013

Disclosure determination:

- Consultant will not be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B attached. No disclosure required.
- Consultant will be "making a government decision" or "serving in a staff capacity" as defined in Sections A and B attached. Consultant is required to file a Statement of Economic Interests with the City Clerk of the City of San Diego in a timely manner as required by law.

Disclosure required to the broadest level.

Disclosure required to a limited extent:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:   
Michael Marks, Senior Civil Engineer, E&CP

10/22/08  
Date

\*Forward a copy of this form to the Consultant to notify them of the determination.  
\*Forward a copy of this form to the City Clerk's office to go on file for reporting purposes.

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## DEFINITION OF "CONSULTANT"

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
1. Approve a rate, rule or regulation;
  2. Adopt or enforce a law;
  3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;
  5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
  6. Grant City approval to a plan, design, report, study, or similar item;
  7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

An individual "serves in a staff capacity" if he or she performs substantially all the same tasks that normally would be performed by staff member of a governmental entity. In most cases, individuals who work on only one project or a limited range of projects for an agency are not considered to be working in a "staff capacity." The length of the individual's service to the agency is relevant. Also, the tasks over the relevant period of time must be substantially the same as a position that is or should be specified in the City's conflict of interest code.

An individual "participates in making a governmental decision" if he or she: (1) negotiates, without substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decision-maker, by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the individual and the individual is attempting to influence the decision.

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EXHIBIT G

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

SUBJECT: SUSTAINABLE BUILDING POLICY  
POLICY NO.: 900-14  
EFFECTIVE DATE: May 20, 2003

BACKGROUND:

Existing buildings and the building development industry consume nearly half of the total energy used in the United States. The City of San Diego's commitment to become increasingly efficient with resources, including energy, water, and materials associated with construction projects, is demonstrated in Council Policy 900-14 "Green Building Policy" adopted in 1997, Council Policy 900-16 "Community Energy Partnership," adopted in 2000, and the updated Council Policy 900-14 "Sustainable Buildings Expedite Program" adopted in 2001.

On April 16, 2002, the Mayor and City Council adopted CMR 02-060 which requires City projects to achieve the U.S. Green Building Council's LEED silver standard for all new buildings and major renovations over 5,000 square feet. This places San Diego among the most progressive cities in the nation in terms of sustainable building policies.

As a participant in the International Council for Local Environmental Initiatives (ICLEI) Cities for Climate Protection Program, as a Charter member in the California Climate Action Registry and as an active member of the U.S. Green Building Council, the City of San Diego is committed to reducing greenhouse gas emissions by implementing more sustainable practices, including green building technologies.

PURPOSE:

The purpose of this policy is to reassert the City's commitment to green building practices in City facilities, and to provide leadership and guidance in promoting, facilitating, and instituting such practices in the community.

POLICY:

The following principles will be required for all newly constructed facilities and major building renovation projects for City facilities:

LEED (Leadership in Energy and Environmental Design):

The LEED (Leadership in Energy and Environmental Design) Green Building Rating System is a voluntary, consensus-based national standard for developing high-performance, sustainable buildings. Members of the U.S. Green Building Council representing all segments of the building industry developed LEED and continue to contribute to its evolution.

The City of San Diego is committed to achieving LEED "Silver" Level Certification for all new City facilities and major building renovation projects over 5,000 square feet.

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SUSTAINABLE BUILDING MEASURES:

In addition to achieving LEED "Silver" Level Certification, Council Policy 900-14 encourages the following sustainable building measures for all newly constructed facilities and major renovation projects regardless of square footage:

1. Design and construct mechanical and electrical systems to achieve the maximum energy efficiency achievable with current technology. Consultants shall use computer modeling programs, (Energy Pro) to analyze the effects of various design options and select the set of options producing the most efficient integrated design. Energy efficiency measures shall be selected to achieve energy efficiencies at least 22.51% better than California's Title 24.2001 standards for both new construction and major renovation projects.
2. Incorporate self-generation using renewable technologies to reduce environmental impacts associated with fossil fuel energy use. Newly constructed City facilities shall generate a minimum of 10%, with a goal of 20% from renewable technologies (e.g., photovoltaic, wind and fuel cells).
3. Eliminate the use of CFC based refrigerants in newly constructed facilities and major building renovations and retrofits for all heating, ventilation, air conditioning and refrigerant-based building systems.
4. Incorporate additional commissioning and measurement and verification procedures as outlined by LEED 2.0 Rating System, Energy and Atmospheres, credit 3 and credit 5 for all projects over 20,000 sq. ft.
5. Reduce the quantity of indoor air contaminants that are odorous or potentially irritating to provide installer(s) and occupant(s) health and comfort. Low-emitting materials will include adhesives, paints, coatings carpet systems, composite wood and agri-fiber products.
6. In order to maximize energy efficiency measures within these requirements, projects will combine energy efficiency measures requiring longer payback periods, with measures requiring shorter payback periods to determine the overall project period.

CITY OF SAN DIEGO, CALIFORNIA  
COUNCIL POLICY

7. Comply with the storm water development requirements in the Storm Water Management and Discharge Control Ordinance (Municipal Code § 43.03), and the City's grading and drainage regulations and implementing documents (MC § 142.01 and 142.02, respectively).

In addition to achieving the minimum sustainable building measure this Council Policy encourages the following measures be incorporated into newly constructed facilities and major renovation projects whenever possible:

1. Use high efficiency irrigation technology, drought tolerant native plants and recycled site water to reduce potable water for irrigation by 50%. Additionally, building water consumption should be reduced by 30%.
2. Limit disruption of natural water flows and minimize storm water runoff by minimizing building footprints and other impervious areas, increasing on-site infiltration, preserving and/or restoring natural drainage systems, and reducing contaminants introduced into San Diego's bays, beaches and the ocean.
3. Facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills. Provide an easily accessible area that serves the entire building and is dedicated to the separation, collection and storage of materials for recycling. Recycling should include paper, glass, plastic and metals at a minimum.
4. Incorporate building products that have recycled content reducing the impacts resulting from the extraction of new materials. Newly constructed City facilities shall have a minimum of 25% of building materials that contain in aggregate, a minimum weighted average of 20% post consumer recycled content materials.
5. Reduce the use and depletion of finite raw and long-cycle renewable materials by replacing them with rapidly renewable materials. Newly constructed City facilities should consider incorporating rapidly renewable building materials for 5% of the total building materials.
6. Establish minimum indoor air quality (IAQ) performance to prevent the development of indoor air quality problems in buildings, maintaining the health and well being of the occupants. Newly constructed City facilities will comply with IAQ by conforming to ASHRAE 62-1999.
7. City buildings will be designed to take the maximum advantage of passive and natural sources of heat, cooling, ventilation and light.

The Environmental Services Department, Energy Conservation and Management Division has been designated by this Council Policy as the clearing authority for issues relating to energy for the City of San Diego. The Energy Conservation and Management Division will enter into a Memorandum of Understanding with those City Departments who design, renovate and build new city owned facilities to insure all new City facilities reflect the intent of Council Policy 900-14.

PRIVATE-SECTOR/INCENTIVES:

It shall be the policy of the City Council to expedite the ministerial process for projects which meet the following criteria:

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1. Residential projects that provide 50% of their projected total energy use utilizing renewable energy resources, (e.g., photovoltaic, wind and fuel cells).
2. Commercial and industrial projects that provide 30% of their projected total energy use utilizing renewable energy resources, (e.g., photovoltaic, wind and fuel cells).
3. Residential and commercial and industrial projects that exceed the State of California Title 24 energy requirements by:
  - a. 15% better than California's Title 24.2001 for Residential Buildings.
  - b. 10% better than California's Title 24.2001 for Commercial and Industrial Buildings.

It shall be the policy of the City Council to expedite the discretionary process for projects which meet the following criteria:

1. Incorporate the U.S. Green Building Council, Leadership in Energy and Environmental Design (LEED) 2.0 Rating System "Silver" Level Certification for commercial development projects.
2. Incorporate self-generation through renewable technologies (e.g., photovoltaic, wind and fuel cells) to reduce environmental impacts associated with fossil fuel energy use for commercial and industrial projects generating a minimum of 30% or more of the designed energy consumption from renewable technologies such as photovoltaic, wind and fuel cells.
3. Residential discretionary projects of 4 units or more within urbanized communities as defined in the Progress Guide and General Plan that provide 50% of their projected total energy use utilizing renewable energy resources.

HEALTH AND RESOURCE CONSERVATION:

1. Projects will be designed to avoid inflicting permanent adverse impact on the natural state of the air, land and water, by using resources and methods that minimize pollution and waste, and do not cause permanent damage to the earth, including erosion.
2. Projects will include innovative strategies and technologies such as porous paving to conserve water, reduce effluent and run-off, thus recharging the water table.
3. When feasible, native plants will be used in landscaping to reduce pesticide, fertilizer, and water usage.
4. Buildings will be constructed and operated using materials, methods, mechanical and electrical systems that ensure a healthful indoor air quality, while avoiding contamination by carcinogens, volatile organic compounds, fungi, molds, bacteria, and other known toxins.

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CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

5. Projects will be planned to minimize waste through the use of a variety of strategies such as: a) reuse of materials or the highest practical recycled content; b) raw materials derived from sustainable or renewable sources; c) materials and products ensuring long life/durability and recyclability; d) materials requiring the minimum of energy and rare resources to produce and use; and e) materials requiring the least amount of energy to transport to the job site.

OUTREACH / EDUCATION:

1. An education and outreach effort will be implemented to make the community aware of the benefits of "Green Building" practices.
2. The City will sponsor a recognition program for innovative Green Building projects implemented in the public as well as private sector in an effort to encourage and recognize outstanding environmental protection and energy conservation projects.

IMPLEMENTATION:

The City will seek cooperation with other governmental agencies, public interest organizations, and the private sector to promote, facilitate, and implement Green Building and energy efficiency in the community.

LEGISLATION:

The City will support State and Federal legislation that promotes or allows sustainable development, conservation of natural resources, and energy efficiency technology.

REFERENCES:

Related existing Council Policies:  
400-11, Water Conservation Techniques  
400-12, Water Reclamation/Reuse  
900-02, Energy Conservation and Management  
900-06, Solid Waste Recycling

HISTORY:

Adopted by Resolution R-289457 11/18/1997  
Amended by Resolution R-295074 06/19/2001  
Amended by Resolution R-298000 05/20/2003

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**City of San Diego**  
**Consultant Performance Evaluation**

EXHIBIT H

The purpose of this form is to provide historical data to City staff when selecting consultants.

**Section I**

1. PROJECT DATA		2. CONSULTANT DATA	
1a. Project (title, location and CIP No.):		2a. Name and address of Consultant:	
1b. Brief Description:		2b. Consultant's Project Manager:	
1c. Budgeted Cost:		Phone ( ) _____	
3. CITY DEPARTMENT RESPONSIBLE			
3a. Department (include division):		3b. Project Manager (address & phone):	
4. CONTRACT DATA (DESIGN AND CONSTRUCTION)			
<b>4. Design</b>			
4a. Agreement Date: _____		Resolution #: _____ \$ _____	
4b. Amendments: \$ _____ / # _____ (City)		\$ _____ / # _____ (Consultant)	
4c. Total Agreement (4a. & 4b.): \$ _____			
4d. Type of Work (design, study, etc.):		4e. Key Contract Completion Dates:	
		_____ %	_____ %
		_____ %	_____ %
		_____ %	_____ %
		_____ %	_____ %
		_____ %	100 %
Agreement _____		_____	_____
Delivery _____		_____	_____
Acceptance _____		_____	_____
<b>5. Construction</b>			
5a. Contractor _____		Phone ( ) _____	
<i>(name and address)</i>			
5b. Superintendent _____			
5c. Notice to Proceed _____ (date)		5f. Change Orders:	
5d. Working days _____ (number)		Errors/Omissions _____ % of const. cost \$ _____	
5e. Actual Working days _____ (number)		Unforeseen Conditions _____ % of const. cost \$ _____	
		Changed Scope _____ % of const. cost \$ _____	
		Changes Quantities _____ % of const. cost \$ _____	
		Total Construction Cost \$ _____	
6. OVERALL RATING (Please ensure Section II is completed)			
	Excellent	Satisfactory	Poor
6a. Plans/specification accuracy.....	_____	_____	_____
Consistency with budget.....	_____	_____	_____
Responsiveness to City Staff.....	_____	_____	_____
6b. Overall Rating _____			
7. AUTHORIZING SIGNATURES			
7a. Project Manager _____		Date _____	
7b. Deputy Director _____		Date _____	

PLANS / SPECIFICATION ACCURACY	EXCELLENT	SATISFACTORY	POOR	N/A	RESPONSIVENESS TO STAFF	EXCELLENT	SATISFACTORY	POOR	N/A
Plan/Specification clear and precise					Timely Responses				
Plans/Specs Coordination					Attitude toward Client and review bodies				
Plans/Specs properly formatted					Follows direction and chain of responsibility				
Code Requirements covered					Work product delivered on time				
Adhered to City Standard Drawings/Specs					Timeliness in notifying City of major problems				
Drawings reflect existing conditions					Resolution of Field problems				
As-Built Drawings					CONSISTENCY WITH BUDGET	EXCELLENT	SATISFACTORY	POOR	N/A
Quality Design					Reasonable Agreement negotiation				
Change Orders due to design deficiencies are minimized					Adherence to fee schedule				
					Adherence to project budget				
					Value Engineering Analysis				

Section III

SUPPLEMENTAL INFORMATION

Please ensure to attach additional documentation as needed.

Item \_\_\_\_\_ :

(\*Supporting documentation attached yes \_\_\_\_\_ no \_\_\_\_\_)

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The City of San Diego  
Purchasing and Contracting Department  
Contractor / Vendor Registration

Vendor ID: [Redacted]

(To be provided by City)

Firm Information

Firm Name: [Redacted]

Firm Address: [Redacted]

City: [Redacted] State: [Redacted] Zip: [Redacted]

Phone: [Redacted] Fax: [Redacted]

Taxpayer ID: [Redacted] Business License: [Redacted]

Website: [Redacted]

Contact Information

Name: [Redacted]

Title: [Redacted]

Email: [Redacted]

Phone: [Redacted] Cell: [Redacted]

Address to Which Bids or Contracting Opportunities Should Be Sent  
(If different from above)

Check here if same from above

Mailing Address: [Redacted]

City: [Redacted] State: [Redacted] Zip: [Redacted]

Construction Licenses (If applicable)

License Number: [Redacted] License Type: [Redacted]

Form continues on reverse side

**Product/Services Description:**

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[Redacted area]

**Product/Services Information:**

NAICS Codes:

[Redacted area]

\*select from a list of available NAICS Codes either from the website <http://www.census.gov/epcd/www/naics.html> and select 2007 NAICS codes 6 digit only or from a hard copy available at Purchasing and Contracting

**Ownership Classification**

Classification:

[Redacted area]

(\* select from the list of Ownership Classification Codes provided below)

Check here if Certified by Agency:

Certification #:

[Redacted area]

Agency:

[Redacted area]

Certification #:

[Redacted area]

Agency:

[Redacted area]

**Ownership Classification Codes:**

MBE/African American	(Minority Business Enterprise/African American)
MBE/Hispanic	(Minority Business Enterprise/Hispanic)
MBE/Asian	(Minority Business Enterprise/Asian)
MBE/Pacific Islander	(Minority Business Enterprise/Pacific Islander)
MBE/Native American	(Minority Business Enterprise/Native American)
WBE	(Women Business Enterprise)
DBE	(Disadvantaged Business Enterprise)
DVBE	(Disabled Veteran Business Enterprise)
OBE	(Other Business Enterprise)

Information regarding a vendor's racial or gender ownership status will not be used as a factor in the City's selection process for any contract.

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purchasing@sandiego.gov  
05/22/2008 09:05 AM

To: nancy.l.sampson@mwhglobal.com  
cc  
bcc  
Subject: City of San Diego Contractor/Vendor Registration Confirmation

This email confirms that the information you provided about your company has been entered into the City of San Diego Vendor Registration Database. Before you can access or update your information, you will need a City Customer Account. If you do not already have a City Customer Account, you may create one by going to the [Contractor/Vendor Registration page](#) and clicking on the Create Customer Account button under STEP 1: Obtain a Username and Password. After creating your account, you will receive a Customer Account Confirmation email which will require you to click on a link to activate your account. You will be able to return to the Contractor/Vendor Registration page and login to access your information.

Your registration shall remain valid for two years from today's date: 05/22/2008

All prospective bidders, as well as existing contractors and vendors, are required to complete and submit the online Contractor/Vendor Registration form. Registration will be a prerequisite for the following:

- Submission of future prime contract or subcontract bids for City projects;
- Acceptance of all future vendor and contractor bills and invoices submitted to the City; and
- Award of all future contracts issued by the City.

#### **Public Information Disclaimer**

Your Contractor/Vendor information is now part of the public record. Limited information will be available in an online search to the general public and additional information will be available in an online search to other registered contractors/vendors.

#### **E-Mail Notification of BID Opportunities**

If you checked YES to be notified via E-mail of bid opportunities and at any point in time you no longer wish to receive notifications via E-mail, [login](#) to access your SAVED online Contractor/Vendor Registration Form and check NO next to the option at the bottom of the form, "Do you want to be notified via E-mail of BID opportunities?".

#### **Updating Your Contractor/Vendor Registration Information**

You can make any necessary changes to your registration information by simply logging in and updating your SAVED online Contractor/Vendor Registration form information at the login link above.