

1 AGREEMENT

2 **30947**

3 THIS AGREEMENT is made and entered, in duplicate, as of October 15,
4 2008, for reference purposes only, pursuant to a minute order adopted by the City
5 Council of the City of Long Beach at its meeting on October 14, 2008, by and between
6 LSA ASSOCIATES, INC., a California corporation ("Consultant"), with a place of
7 business at 20 Executive Park, Suite 200, Irvine, California 92614, and the CITY OF
8 LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be
10 performed to prepare all elements of the State and Federal environmental documentation
11 needed to begin the physical work of restoration of the Colorado Lagoon in the City of
12 Long Beach ("Project"), as described more fully in the attached Scope of Work; and

13 WHEREAS, City has selected Consultant in accordance with City's
14 administrative procedures and City has determined that Consultant and its employees
15 are qualified, licensed, if so required, and experienced in performing these specialized
16 services; and

17 WHEREAS, City desires to have Consultant perform these specialized
18 services, and Consultant is willing and able to do so on the terms and conditions in this
19 Agreement;

20 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
21 conditions in this Agreement, the parties agree as follows:

22 1. SCOPE OF WORK OR SERVICES.

23 A. Consultant shall furnish specialized services more particularly
24 described in Exhibit "A", attached to this Agreement and incorporated by this
25 reference, in accordance with the standards of the profession, and City shall pay
26 for these services in the manner described below, not to exceed One Hundred
27 Ninety-Five Thousand Nine Hundred Thirty-Nine Dollars (\$195,939), at the rates
28 or charges shown in Exhibit "A". The parties may agree to revise the amount of a

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 given task or shift funds allocated between tasks, provided that no such change
2 shall occur before Consultant requests such change in writing and City consents
3 thereto.

4 B. Consultant may select the time and place of performance for
5 these services; provided, however, that access to City documents, records and the
6 like, if needed by Consultant, shall be available only during City's normal business
7 hours and provided that milestones for performance, if any, are met.

8 C. Consultant has requested to receive regular payments. City
9 shall pay Consultant in due course of payments following receipt from Consultant
10 and approval by City of invoices showing the services or task performed, the time
11 expended (if billing is hourly), and the name of the Project. Consultant shall certify
12 on the invoices that Consultant has performed the services in full conformance
13 with this Agreement and is entitled to receive payment. Each invoice shall be
14 accompanied by a progress report indicating the progress to date of services
15 performed and covered by the invoice, including a brief statement of any Project
16 problems and potential causes of delay in performance, and listing those services
17 that are projected for performance by Consultant during the next invoice cycle.
18 Where billing is done and payment is made on an hourly basis, the parties
19 acknowledge that this arrangement is either customary practice for Consultant's
20 profession, industry or business, or is necessary to satisfy audit and legal
21 requirements which may arise due to the fact that City is a municipality.

22 D. Consultant represents that Consultant has obtained all
23 necessary information on conditions and circumstances that may affect its
24 performance and has conducted site visits, if necessary.

25 E. CAUTION: Consultant shall not begin work until this
26 Agreement has been signed by both parties and until Consultant's evidence of
27 insurance has been delivered to and approved by City.

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1 2. TERM. The term of this Agreement shall commence at midnight on
2 October 15, 2008, and shall terminate at 11:59 p.m. on October 14, 2010, unless sooner
3 terminated as provided in this Agreement, or unless the services or the Project is
4 completed sooner.

5 3. COORDINATION AND ORGANIZATION.

6 A. Consultant shall coordinate its performance with City's
7 representative, if any, named in Exhibit "B", attached to this Agreement and
8 incorporated by this reference. Consultant shall advise and inform City's
9 representative of the work in progress on the Project in sufficient detail so as to
10 assist City's representative in making presentations and in holding meetings on
11 the Project. City shall furnish to Consultant information or materials, if any,
12 described in Exhibit "C", attached to this Agreement and incorporated by this
13 reference, and shall perform any other tasks described in the Exhibit.

14 B. The parties acknowledge that a substantial inducement to City
15 for entering this Agreement was and is the reputation and skill of Consultant's key
16 employee, Mike Trotta. City shall have the right to approve any person proposed
17 by Consultant to replace that key employee.

18 4. INDEPENDENT CONTRACTOR. In performing its services,
19 Consultant is and shall act as an independent contractor and not an employee,
20 representative or agent of City. Consultant shall have control of Consultant's work and
21 the manner in which it is performed. Consultant shall be free to contract for similar
22 services to be performed for others during this Agreement; provided, however, that
23 Consultant acts in accordance with Section 9 and Section 11 of this Agreement.
24 Consultant acknowledges and agrees that (a) City will not withhold taxes of any kind from
25 Consultant's compensation; (b) City will not secure workers' compensation or pay
26 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide
27 and Consultant is not entitled to any of the usual and customary rights, benefits or
28 privileges of City employees. Consultant expressly warrants that neither Consultant nor

1 any of Consultant's employees or agents shall represent themselves to be employees or
2 agents of City.

3 5. INSURANCE.

4 A. As a condition precedent to the effectiveness of this
5 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
6 duration of this Agreement, from insurance companies that are admitted to write
7 insurance in California and have ratings of or equivalent to A:V by A.M. Best
8 Company or from authorized non-admitted insurance companies subject to
9 Section 1763 of the California Insurance Code and that have ratings of or
10 equivalent to A:VIII by A.M. Best Company, the following insurance:

11 (a) Commercial general liability insurance (equivalent in scope to
12 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
13 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
14 coverage shall include but not be limited to broad form contractual liability,
15 cross liability, independent contractors liability, and products and
16 completed operations liability. City, its boards and commissions, and their
17 officials, employees and agents shall be named as additional insureds by
18 endorsement (on City's endorsement form or on an endorsement
19 equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and
20 this insurance shall contain no special limitations on the scope of
21 protection given to City, its boards and commissions, and their officials,
22 employees and agents. This policy shall be endorsed to state that the
23 insurer waives its right of subrogation against City, its boards and
24 commissions, and their officials, employees and agents.

25 (b) Workers' Compensation insurance as required by the California
26 Labor Code and employer's liability insurance in an amount not less than
27 \$1,000,000. This policy shall be endorsed to state that the insurer waives
28 its right of subrogation against City, its boards and commissions, and their

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officials, employees and agents.

(c) Professional liability or errors and omissions insurance in an amount not less than \$1,000,000 per claim.

(d) Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than \$500,000 combined single limit per accident.

B. Any self-insurance program, self-insured retention, or deductible must be separately approved in writing by City's Risk Manager or designee and shall protect City, its officials, employees and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention or deductible provisions.

C. Each insurance policy shall be endorsed to state that coverage shall not be reduced, non-renewed or canceled except after thirty (30) days prior written notice to City, shall be primary and not contributing to any other insurance or self-insurance maintained by City, and shall be endorsed to state that coverage maintained by City shall be excess to and shall not contribute to insurance or self-insurance maintained by Consultant. Consultant shall notify City in writing within five (5) days after any insurance has been voided by the insurer or cancelled by the insured.

D. If this coverage is written on a "claims made" basis, it must provide for an extended reporting period of not less than one hundred eighty (180) days, commencing on the date this Agreement expires or is terminated, unless Consultant guarantees that Consultant will provide to City evidence of uninterrupted, continuing coverage for a period of not less than three (3) years, commencing on the date this Agreement expires or is terminated.

E. Consultant shall require that all subconsultants or contractors that Consultant uses in the performance of these services maintain insurance in compliance with this Section unless otherwise agreed in writing by City's Risk

1 Manager or designee.

2 F. Prior to the start of performance, Consultant shall deliver to
3 City certificates of insurance and the endorsements for approval as to sufficiency
4 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of
5 the insurance, furnish to City certificates of insurance and endorsements
6 evidencing renewal of the insurance. City reserves the right to require complete
7 certified copies of all policies of Consultant and Consultant's subconsultants and
8 contractors, at any time. Consultant shall make available to City's Risk Manager
9 or designee all books, records and other information relating to this insurance,
10 during normal business hours.

11 G. Any modification or waiver of these insurance requirements
12 shall only be made with the approval of City's Risk Manager or designee. Not
13 more frequently than once a year, City's Risk Manager or designee may require
14 that Consultant, Consultant's subconsultants and contractors change the amount,
15 scope or types of coverages required in this Section if, in his or her sole opinion,
16 the amount, scope or types of coverages are not adequate.

17 H. The procuring or existence of insurance shall not be
18 construed or deemed as a limitation on liability relating to Consultant's
19 performance or as full performance of or compliance with the indemnification
20 provisions of this Agreement.

21 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
22 contemplates the personal services of Consultant and Consultant's employees, and the
23 parties acknowledge that a substantial inducement to City for entering this Agreement
24 was and is the professional reputation and competence of Consultant and Consultant's
25 employees. Consultant shall not assign its rights or delegate its duties under this
26 Agreement, or any interest in this Agreement, or any portion of it, without the prior
27 approval of City, except that Consultant may with the prior approval of the City Manager
28 of City, assign any moneys due or to become due Consultant under this Agreement. Any

1 attempted assignment or delegation shall be void, and any assignee or delegate shall
2 acquire no right or interest by reason of an attempted assignment or delegation.
3 Furthermore, Consultant shall not subcontract any portion of its performance without the
4 prior approval of the City Manager or designee, or substitute an approved subconsultant
5 or contractor without approval prior to the substitution. Nothing stated in this Section
6 shall prevent Consultant from employing as many employees as Consultant deems
7 necessary for performance of this Agreement.

8 7. CONFLICT OF INTEREST. Consultant, by executing this
9 Agreement, certifies that, at the time Consultant executes this Agreement and for its
10 duration, Consultant does not and will not perform services for any other client which
11 would create a conflict, whether monetary or otherwise, as between the interests of City
12 and the interests of that other client. And, Consultant shall obtain similar certifications
13 from Consultant's employees, subconsultants and contractors.

14 8. MATERIALS. Consultant shall furnish all labor and supervision,
15 supplies, materials, tools, machinery, equipment, appliances, transportation and services
16 necessary to or used in the performance of Consultant's obligations under this
17 Agreement, except as stated in Exhibit "C".

18 9. OWNERSHIP OF DATA. All materials, information and data
19 prepared, developed or assembled by Consultant or furnished to Consultant in
20 connection with this Agreement, including but not limited to documents, estimates,
21 calculations, studies, maps, graphs, charts, computer disks, computer source
22 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,
23 information, material and memorandum ("Data") shall be the exclusive property of City.
24 Data shall be given to City, and City shall have the unrestricted right to use and disclose
25 the Data in any manner and for any purpose without payment of further compensation to
26 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that
27 Data shall not be made available to any person or entity for use without the prior approval
28 of City. This warranty shall survive termination of this Agreement for five (5) years.

1 10. TERMINATION. Either party shall have the right to terminate this
2 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
3 prior notice to the other party. In the event of termination under this Section, City shall
4 pay Consultant for services satisfactorily performed and costs incurred up to the effective
5 date of termination for which Consultant has not been previously paid. The procedures
6 for payment in Section 1.B. with regard to invoices shall apply. On the effective date of
7 termination, Consultant shall deliver to City all Data developed or accumulated in the
8 performance of this Agreement, whether in draft or final form, or in process. And,
9 Consultant acknowledges and agrees that City's obligation to make final payment is
10 conditioned on Consultant's delivery of the Data to City.

11 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
12 shall not disclose the Data or use the Data directly or indirectly, other than in the course
13 of performing its services, during the term of this Agreement and for five (5) years
14 following expiration or termination of this Agreement. In addition, Consultant shall keep
15 confidential all information, whether written, oral or visual, obtained by any means
16 whatsoever in the course of performing its services for the same period of time.
17 Consultant shall not disclose any or all of the Data to any third party, or use it for
18 Consultant's own benefit or the benefit of others except for the purpose of this
19 Agreement.

20 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
21 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
22 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available
23 without breach of this Agreement by Consultant; or (c) a third party who has a right to
24 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
25 disclosed pursuant to subpoena or court order.

26 13. ADDITIONAL COSTS AND REDESIGN.

27 A. Any costs incurred by City due to Consultant's failure to meet
28 the standards required by the scope of work or Consultant's failure to perform fully

1 the tasks described in the scope of work which, in either case, causes City to
2 request that Consultant perform again all or part of the Scope of Work shall be at
3 the sole cost of Consultant and City shall not pay any additional compensation to
4 Consultant for its re-performance.

5 B. If the Project involves construction and the scope of work
6 requires Consultant to prepare plans and specifications with an estimate of the
7 cost of construction, then Consultant may be required to modify the plans and
8 specifications, any construction documents relating to the plans and specifications,
9 and Consultant's estimate, at no cost to City, when the lowest bid for construction
10 received by City exceeds by more than ten percent (10%) Consultant's estimate.
11 This modification shall be submitted in a timely fashion to allow City to receive new
12 bids within four (4) months after the date on which the original plans and
13 specifications were submitted by Consultant.

14 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
15 amended, nor any provision or breach waived, except in writing signed by the parties
16 which expressly refers to this Agreement.

17 15. LAW. This Agreement shall be governed by and construed pursuant
18 to the laws of the State of California (except those provisions of California law pertaining
19 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and
20 regulations of and obtain all permits, licenses and certificates required by all federal, state
21 and local governmental authorities.

22 16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
23 constitutes the entire understanding between the parties and supersedes all other
24 agreements, oral or written, with respect to the subject matter in this Agreement.

25 17. INDEMNITY. Consultant shall, with respect to services performed in
26 connection with this Agreement, indemnify and hold harmless City, its Boards,
27 Commissions, and their officials, employees and agents (collectively in this Section,
28 "City") from and against any and all liability, claims, allegations, demands, damage, loss,

1 causes of action, proceedings, penalties, costs and expenses (including attorney's fees,
2 court costs, and expert and witness fees) (collectively "Claims" or individually "Claim")
3 arising, directly or indirectly, in whole or in part, out of any negligent act or omission of
4 Consultant, its officers, employees, agents, sub-consultants or anyone under
5 Consultant's control (collectively "Indemnitor"), breach of this Agreement by Indemnitor,
6 misrepresentation or willful misconduct by Indemnitor, and Claims by any employee of
7 Indemnitor relating in any way to workers' compensation. Independent of the duty to
8 indemnify and as a free-standing duty on the part of Consultant, Consultant shall defend
9 City and shall continue this defense until the Claim is resolved, whether by settlement,
10 judgment or otherwise. No finding or judgment of negligence, fault, breach or the like on
11 the part of Indemnitor shall be required for the duty to defend to arise. Consultant shall
12 notify City of any Claim within ten (10) days. Likewise, City shall notify Consultant of any
13 Claim, shall tender the defense of the Claim to Consultant, and shall assist Consultant at
14 Consultant's sole expense, as may be reasonably requested, in the defense.

15 18. AMBIGUITY. In the event of any conflict or ambiguity between this
16 Agreement and any Exhibit, the provisions of this Agreement shall govern.

17 19. COSTS. If there is any legal proceeding between the parties to
18 enforce or interpret this Agreement or to protect or establish any rights or remedies under
19 it, the prevailing party shall be entitled to its costs, including reasonable attorneys' fees.

20 20. NONDISCRIMINATION.

21 A. In connection with performance of this Agreement and subject
22 to applicable rules and regulations, Consultant shall not discriminate against any
23 employee or applicant for employment because of race, religion, national origin,
24 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
25 disability. Consultant shall ensure that applicants are employed, and that
26 employees are treated during their employment, without regard to these bases.
27 These actions shall include, but not be limited to, the following: employment,
28 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or

1 termination; rates of pay or other forms of compensation; and selection for training,
2 including apprenticeship.

3 B. It is the policy of City to encourage the participation of
4 Disadvantaged, Minority and Women-Owned Business Enterprises in City's
5 procurement process, and Consultant agrees to use its best efforts to carry out
6 this policy in its use of subconsultants and contractors to the fullest extent
7 consistent with the efficient performance of this Agreement. Consultant may rely
8 on written representations by subconsultants and contractors regarding their
9 status. City's policy is attached as Exhibit "D" to this Agreement. Consultant shall
10 report to City in May and in December or, in the case of short-term agreements,
11 prior to invoicing for final payment, the names of all subconsultants and
12 contractors hired by Consultant for this Project and information on whether or not
13 they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
14 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

15 21. NOTICES. Any notice or approval required by this Agreement shall
16 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
17 postage prepaid, addressed to Consultant at the address first stated above, and to City at
18 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a
19 copy to the City Engineer at the same address. Notice of change of address shall be
20 given in the same manner as stated for other notices. Notice shall be deemed given on
21 the date deposited in the mail or on the date personal delivery is made, whichever occurs
22 first.

23 22. COPYRIGHTS AND PATENT RIGHTS.

24 A. Consultant shall place the following copyright protection on all
25 Data: © City of Long Beach, California _____, inserting the appropriate year.

26 B. City reserves the exclusive right to seek and obtain a patent
27 or copyright registration on any Data or other result arising from Consultant's
28 performance of this Agreement. By executing this Agreement, Consultant assigns

1 any ownership interest Consultant may have in the Data to City.

2 C. Consultant warrants that the Data does not violate or infringe
3 any patent, copyright, trade secret or other proprietary right of any other party.
4 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials
5 and employees harmless from any and all claims, demands, damages, loss,
6 liability, causes of action, costs or expenses (including reasonable attorney's fees)
7 whether or not reduced to judgment, arising from any breach or alleged breach of
8 this warranty.

9 23. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
10 that Consultant has not employed or retained any entity or person to solicit or obtain this
11 Agreement and that Consultant has not paid or agreed to pay any entity or person any
12 fee, commission or other monies based on or from the award of this Agreement. If
13 Consultant breaches this warranty, City shall have the right to terminate this Agreement
14 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct
15 from payments due under this Agreement or otherwise recover the full amount of the fee,
16 commission or other monies.

17 24. WAIVER. The acceptance of any services or the payment of any
18 money by City shall not operate as a waiver of any provision of this Agreement or of any
19 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
20 Agreement shall not constitute a waiver of any other or subsequent breach of this
21 Agreement.

22 25. CONTINUATION. Termination or expiration of this Agreement shall
23 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
24 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

25 26. TAX REPORTING. As required by federal and state law, City is
26 obligated to and will report the payment of compensation to Consultant on Form 1099-
27 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
28 resulting from payments under this Agreement. Consultant's Employer Identification

1 Number is [REDACTED] If Consultant has a Social Security Number rather than an
2 Employer Identification Number, then Consultant shall submit that Social Security
3 Number in writing to City's Accounts Payable, Department of Financial Management.
4 Consultant acknowledges and agrees that City has no obligation to pay Consultant until
5 Consultant provides one of these numbers.

6 27. ADVERTISING. Consultant shall not use the name of City, its
7 officials or employees in any advertising or solicitation for business or as a reference,
8 without the prior approval of the City Manager or designee.

9 28. AUDIT. City shall have the right at all reasonable times during the
10 term of this Agreement and for a period of five (5) years after termination or expiration of
11 this Agreement to examine, audit, inspect, review, extract information from and copy all
12 books, records, accounts and other documents of Consultant relating to this Agreement.

13 29. THIRD PARTY BENEFICIARY. This Agreement is not intended or
14 designed to or entered for the purpose of creating any benefit or right for any person or
15 entity of any kind that is not a party to this Agreement.

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1 IN WITNESS WHEREOF, the parties have caused this document to be duly
2 executed with all formalities required by law as of the date first stated above.

3 LSA ASSOCIATES, INC., a California
4 corporation

5 10/30/, 2008

By Les Card
6 LES CARD
7 Type or Print Name

8 _____, 2008

By _____
9 _____
10 Type or Print Name

11 "Consultant"

12 CITY OF LONG BEACH, a municipal
13 corporation

14 Nov. 25, 2008

By [Signature] Assistant City Manager
15 City Manager

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

16 "City"

17 This Agreement is approved as to form on November 4, 2008.

18 ROBERT E. SHANNON, City Attorney

By [Signature]
19 Deputy

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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EXHIBIT “A”

Scope of Work



LSA ASSOCIATES, INC.
PACIFIC CENTER
703 PALOMAR AIRPORT RD., SUITE 260
CARLSBAD, CALIFORNIA 92011

760.931.5471 TEL
760.918.2458 FAX

IRVINE
PT. RICHMOND
RIVERSIDE
SAN LUIS OBISPO
BERKELEY
CARLSBAD

FT. COLLINS
ROCKLIN
SOUTH
SAN FRANCISCO

October 14, 2008

Mr. Eric Lopez, Administrative Analyst
Department of Community Development
City of Long Beach
333 West Ocean Boulevard, 3rd Floor
Long Beach, California 90802

Subject: Revised Proposal for Regulatory Permitting Assistance Services: Colorado Lagoon Improvement Project, Long Beach, California (LSA Proposal No. ZZZ093J1)

Dear Mr. Lopez:

LSA Associates, Inc. (LSA) hereby submits this proposal for environmental consulting services. Specifically, this proposal addresses regulatory permitting assistance pertaining to the Colorado Lagoon Improvement Project, located in the City of Long Beach, County of Los Angeles, California.

It is LSA's understanding that the proposed Colorado Lagoon (Lagoon) improvements will require approvals from the California Coastal Commission (CCC) pursuant to the California Coastal Act, the United States Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act (CWA), the Regional Water Quality Control Board (RWQCB) pursuant to Section 401 of the CWA, and the California Department of Fish and Game (CDFG) pursuant to Section 1600 et seq. of the California Fish and Game Code. The following scope of work and associated cost estimate are based in part on information presented at meetings with the City of Long Beach (City).

SCOPE OF WORK

Task 1: Preapplication Meetings

Preapplication meetings will be held with the resource agencies to introduce them to the project. The CCC will be invited and will hopefully express any concerns or objectives regarding the proposed project. The Corps will be invited and consulted to determine what type of Section 404 authorization is required (Individual Permit or Nationwide Permit) and for any additional input or comments on the project. The CDFG will be invited and consulted for any input or comments on the project. The RWQCB will not likely attend any meetings until it receives an application; however, it will be invited to attend the preapplication meeting and to provide input and comments. Preapplication meetings can help determine the specific information each agency will need to process its permits. Through this process, any required technical studies in addition to those included in this proposal can be identified early in the process and incorporated into the work plan. Furthermore, preapplication meetings provide an opportunity for agencies to ask questions about the project, identify any areas of concern, and provide guidance on possible mitigation scenarios.

If the Corps determines that an Individual Permit is necessary, then the appropriate National Environmental Policy Act (NEPA) documentation would also need to be prepared. This proposal is

based on the presumption that a Nationwide Permit (NWP) or a combination of NWPs will be needed. It is likely that NWP 27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities) and possibly NWP 38 (Cleanup of Hazardous and Toxic Waste) will be applicable to the proposed project. If it is determined that an Individual Permit is necessary, additional budget will be required.

Coordination of a single meeting with all the resource agencies is not always possible in a timely manner. LSA is proposing to allow for up to three meetings with the project team and the resource agencies as part of this task.

Task 2: Prepare and Submit Conceptual and Final Compensatory Mitigation Plan

Due to the limited wetland and riparian resources in Southern California and the federal “no net loss of wetlands” policy, the resource agencies require compensatory mitigation for virtually every permit or agreement issued where unavoidable impacts to jurisdictional waters will occur. Therefore, LSA will prepare a conceptual plan of the proposed mitigation for impacts to identified jurisdictional areas, and this conceptual plan will be included in the submittal packages for the CCC, Corps, RWQCB, and CDFG, which are described below. It is anticipated that mitigation will be provided on site at the Lagoon. Upon approval of the compensatory mitigation plan by the resource agencies, LSA will prepare a final compensatory mitigation and monitoring plan, including technical specifications and qualification requirements suitable for landscape contractor bidding.

Task 3: Prepare and Submit Section 404 Pre-construction Notification

LSA anticipates processing Section 404 authorization pursuant to an existing NWP, presumably NWP 27, possibly in combination with NWP 38. Therefore, LSA proposes to prepare and submit to the Corps a complete Pre-construction Notification (PCN) package. The PCN package will include a cover letter with the following information/materials:

- Complete set of project site construction plans/drawings (to be provided by the City or the City’s Project Engineer);
- Detailed project description with project background and summary of project impacts and mitigation measures;
- Jurisdictional waters delineation of the project area;
- Biological resources assessment, including discussion of federally listed species and vegetation community impact analysis;
- Proposed compensatory mitigation plan;
- Cultural resources assessment for compliance with Section 106 of the National Historic Preservation Act;
- Copy of Coastal Development Permit application;
- Copy of Water Quality Management Plan (to be provided by the City or the City’s Project Engineer);
- Copy of Section 401 Water Quality Certification application package; and

- Copy of the Notification of Streambed Alteration package submitted to CDFG.

Task 4: Prepare and Submit Section 401 Water Quality Certification Application

A project-specific Section 401 water quality certification from the Los Angeles RWQCB will be necessary. The Corps requires evidence of water quality certification as a condition of issuing authorization under an NWP or Individual Permit. This effort involves preparing a separate application package for submittal to the RWQCB that includes a detailed form required by the RWQCB. This form addresses water quality and wetland issues, best management practices, and potential impacts to beneficial water uses. A copy of the Water Quality Management Plan (WQMP) will be required with the application package. For the purposes of this scope and budget, it is assumed that the WQMP will be prepared by the City or by the City's Project Engineer. LSA, however, would be pleased to provide additional scope and budget to prepare this document if requested by the City.

When considering the timing of the permit process, it is important to note that the Corps will not issue its final authorization until it has a copy of the water quality certification. The RWQCB requires a fee for fill or dredge operations with respect to waters of the U.S. This application filing fee will be provided to LSA by the City and included in the Section 401 application package.

Task 5: Prepare and Submit RWQCB NPDES Wastewater Discharge/Dewatering Permit Application

LSA will prepare the permit application for coverage under a general National Pollution Discharge Elimination System (NPDES) permit for discharges of wastewater from construction dewatering. This permit would be required if sediment removal is done via excavation ("in the dry") and possibly for return water from the draining of dredged material prior to trucking to the Port. LSA will investigate and analyze groundwater dewatering rates, will analyze water and sediment quality, and determine the wastewater discharge quantities associated with the project. For the purposes of this proposal, it is assumed that adequate groundwater hydrogeologic and water quality data exist to be able to determine groundwater dewatering rates required for excavation and for permit application. If fieldwork or additional research is required to make this determination, additional budget would be required. LSA will develop a conceptual dewatering approach, prepare a dewatering plan, and gather existing water quality data for the groundwater. The NPDES permit application, including the Notice of Intent and other technical information (dewatering plan), will be submitted. The dewatering plan shall be provided by the City or by the City's Project Engineer. Any required permit fees will be provided to LSA by the City and included with the permit application submittal. The cost of submittal fees is not included in this proposal. Following submittal of the permit application, LSA will respond to any RWQCB requests for additional information.

Task 6: Prepare and Submit County of Los Angeles Sanitary Sewer Diversion Permit Application

LSA will prepare the permit application for discharging storm drain dry weather flows into the Los Angeles County sanitary sewer system. The application includes the Los Angeles County Sanitation District (LACSD) permit application, which requires an estimate of diversion amounts, conceptual plans, and providing other project information. It is anticipated that coordination with LACSD and

City staff will be required. For purposes of this proposal, it is assumed that the Colorado Lagoon Improvement Project will be implemented separately from the County's Termino Avenue Drain Project and that water quality data are not required for the initial permit application. Stormwater quality testing is not included as part of this scope. Any required permit fees will be provided to LSA by the City and included with the permit application submittal. The cost of submittal fees is not included in this proposal. Following submittal of the permit application, LSA will respond to LACSD requests for additional information.

Task 7: Assist City with Coastal Development Permit Application (Owner's Option)

The project area is within the Coastal Zone and therefore subject to the jurisdiction of the CCC. The City Local Coastal Program (LCP) does not cover all of the project area. Therefore, a Coastal Development Permit (CDP), which is issued by the CCC, is required. As an Owner's Optional task, LSA will provide assistance to the City to obtain all necessary information, prepare and submit the CDP application, and coordinate and send out the required notification to adjacent property owners. LSA will also attend the CCC hearing. Although the project will likely be considered beneficial and not related to development with the goals of improving habitat and public access uses, it is impossible to predict how CCC staff will treat the application. The CCC may request additional information that is not usually required in a CDP application. For budgeting purposes, LSA assumes that a complete CDP application prepared by the City with LSA assistance will be sufficient; however, if the CCC staff requires additional information not required in the CDP application, additional budget may be required if LSA is tasked to provide more assistance than allowed for with the budget for this task. The assumed deliverables for this task include assisting the City with the CDP application and presentation materials for the CCC hearing, including supporting graphics, as needed. The CCC requires a fee for CDP applications. This application filing fee will be provided by the City and included in the CDP application package. The cost of submittal fees is not included in this proposal. The City has indicated that the City Department of Parks, Recreation, and Marine may prepare and submit the CDP application; therefore, this task is presented as an Owner's Option, and LSA will not conduct the services described under this task (i.e., assistance with permit application preparation) without specific notification to proceed.

Task 8: Prepare and Submit CDFG Section 1602 Notification of Streambed Alteration

The CDFG regulates all activities that alter streams and lakes and their associated riparian habitat. A CDFG Section 1602 Agreement is required for all activities resulting in impacts to streambeds and their associated riparian habitats. If Colorado Lagoon is determined to be subject to CDFG jurisdiction, then LSA will prepare a Section 1602 Notification of Streambed Alteration package, which consists primarily of a cover letter, Forms FG2023 and FG2024, and various supplemental information and materials, including the following:

- Complete set of project site construction plans/drawings (to be provided by the City or the City's Project Engineer);
- Detailed project description with project background and summary of project impacts and mitigation measures;

- Jurisdictional delineation of project area;¹
- Proposed compensatory mitigation plan;
- Description of existing and/or potential biological resources on site;
- Copies of the Water Quality Management Plan and Storm Water Pollution Prevention Plan, if applicable (to be provided by the City or the City's Project Engineer);
- Copy of CDP application;
- Copy of Corps PCN package;
- Copy of Section 401 Water Quality Certification application; and
- Evidence of local project California Environmental Quality Act (CEQA) certification

The CDFG requires an application fee for processing a Streambed Alteration Agreement. This fee will be provided to LSA by the City and included in the notification package. The cost of submittal fees is not included in this proposal.

Task 9: County of Los Angeles Flood Control District – Flood Permit

LSA subconsultant (Moffatt & Nichol, Project Engineer) will prepare a permit application to modify the County storm drain to divert dry weather flows into Los Angeles County sanitary sewer system. LSA will obtain copies of existing hydrology and hydraulics analyses from Los Angeles County Flood Control District (LACFCD) for this storm drain facility and review analyses. Moffatt & Nichol will perform hydraulics analyses required for permit application requirements pursuant to Los Angeles County's "Guidelines for Connection Permits." Moffatt & Nichol will coordinate with County Public Works and City of Long Beach staff. Following submittal of the flood permit application, Moffatt & Nichol will respond to County Public Works requests for additional information. This scope assumes that hydrology data for County storm drain is already available and new calculations are not required. If new calculations are necessary, additional budget may be required.

Task 10: Attend Meetings, Track Approvals, and Project Management

LSA anticipates the need to meet face to face with agency representatives (i.e., Corps, RWQCB, CDFG, and CCC), in addition to telephone and e-mail correspondence, to complete the tasks described above. LSA has allocated time and budget for eight such meetings/conference calls with City and agency representatives. Each of these meetings is expected not to exceed 6 hours in duration (including travel time). Additional meetings, if necessary, can be authorized by the City on a time-and-materials basis. In addition, LSA has allocated up to 60 hours for efficiently managing the tasks proposed above and for keeping the applicant fully apprised as to the status of the permit process. LSA will follow up on its submittal to the agencies and will conduct coordination as necessary to ensure efficient and timely application review.

¹ The 2008 Jurisdictional Delineation prepared for the EIR shall be used if permit applications are submitted by February 2009. If the applications are submitted after February 2009, an updated delineation (separate scope and budget) would be required.

ESTIMATED SCHEDULE

LSA estimates that following notification to proceed, the tasks described above can be completed as follows:

- **Task 1:** LSA estimates that it will take approximately 30 days following notification to proceed to coordinate with and meet with the resource agencies.
- **Task 2:** LSA estimates that it will take approximately 30 days following completion of Task 1 to prepare a compensatory mitigation plan in draft form for City review and estimates an additional 15 days to allow for City review and LSA incorporation of City comments, for a total of 45 days following completion of Task 1.
- **Tasks 3–9 (including Task 7 if conducted by LSA):** LSA estimates it will take 45 days following completion of Task 1 to provide the City with draft permit applications for review and is allowing another 15 days for City review and LSA incorporation of City comments before the applications are ready for submittal to the resource agencies.

COST ESTIMATE

LSA estimates that a maximum budget of \$195,000 will be necessary to complete all of the tasks in this proposal (see attached budget breakdown). Reimbursable expenses, include mileage, document production, mail/deliveries, and phone/faxes, with the exception of the required notification for the CDP application, are not included in this proposal and will be invoiced on a monthly basis. LSA estimates reimbursable expenses of approximately \$5,000. This proposal is valid for up to 6 months from the date of this submittal. LSA will not exceed the budget without prior authorization from the City. As indicated above, the CCC, RWQCB, and CDFG filing fees, as well as any additional permit application fees, will be provided by the City and are, therefore, not included in this proposal. The estimate of fees by task is as follows:

Task	Estimated Budget
1. Preapplication Meetings	\$8,882
2. Conceptual and Final Compensatory Mitigation Plan	\$15,040
3. Section 404 Pre-construction Notification	\$18,036
4. Section 401 Water Quality Certification Application	\$14,360
5. RWQCB NPDES Wastewater Discharge/Dewatering Permit Application	\$16,056
6. County of Los Angeles Sanitary Sewer Diversion Permit Application	\$13,906
7. Coastal Development Permit Application (Owner's Option)	\$20,000
8. CDFG Section 1602 Notification of Streambed Alteration	\$13,522
9. County of Los Angeles Flood Control District – Flood Permit	\$46,592
10. Attend Meetings, Track Approvals, and Project Management	\$23,610
Reimbursable Expenses	\$5,000
Total	\$195,000

LSA ASSOCIATES, INC.

Should the City decide to conduct Task 7 (Owner's Option) without LSA's assistance, then LSA's budget will be reduced by \$20,000 for a total of \$175,504. If it is determined that the Colorado Lagoon improvements are not subject to jurisdiction of the CDFG and do not require a Section 1602 Lake or Streambed Alteration Agreement, then the budget will be reduced by \$13,522 for a total of \$181,482 (with Owner's Option) or \$161,482 (without Owner's Option).

LSA appreciates the opportunity to provide the City with this proposal and hopes that this scope of work and cost estimate will satisfy the City's needs and expectations. If you have any questions concerning the contents of this proposal, please do not hesitate to contact me at (760) 931-5471.

Sincerely,

LSA ASSOCIATES, INC.



Mike Trotta
Principal

Attachments: Schedule of Standard Contract Provisions and Billing Rates
Estimated Budget Breakdown

SCHEDULE OF STANDARD CONTRACT PROVISIONS AND BILLING RATES

FEES FOR PROFESSIONAL SERVICES

Fixed-Fee Contracts

If a fixed-fee proposal, the professional services described in the Scope of Services Section of the attached proposal shall be provided for the fixed fee noted in the proposal. All other professional services are considered extra services. Extra services shall be provided on a time and expenses basis at the same rates specified for hourly contracts, unless other arrangements are made in advance.

Hourly Contracts

If an hourly plus expenses proposal, the professional services described in the Scope of Services Section of the attached proposal shall be provided on a time and materials basis at current hourly rates. These rates are as shown on a Rate Schedule that is attached, or can be made available. Hourly rates are subject to review at least annually on or about August 1 of each year, and may be adjusted to reflect changing labor costs, at our discretion, at that time. (A schedule can be made available upon request.)

Direct costs (including cost of subconsultants) shall be reimbursed at cost plus ten percent, unless other arrangements are made in advance, and are not included in the hourly fee for professional services.

The total estimated amount of time and expenses noted in the proposal will serve as a control on the services to be provided. The specified amount will not be exceeded without prior approval of the client.

INVOICING

Monthly invoices shall be submitted for progress payment based on work completed to date. Clients requesting changes to LSA's standard invoice may be billed for the time to develop the invoice and monthly administration of the billing.

PAYMENT OF ACCOUNTS

Terms are net 30 days. LSA offers a one percent discount on invoices paid within 30 days of the invoice date. A service charge of 1.5 percent of the invoice amount (18 percent annual rate) may be applied to all accounts not paid within 30 days of invoice date. Any attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by the client.

STANDARD OF CARE

Services provided by LSA under this Agreement will be performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

INDEMNIFICATION

Client and consultant each agree to indemnify and hold the other harmless and their respective officers, employees, agents, and representatives from and against liability for all claims, losses, damages, and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, and expenses are caused by the indemnifying party's negligent acts, errors, or omissions.

ELECTRONIC FILE DATA CHANGES

Copies of documents that may be relied upon by client are limited to the printed copies (also known as hard copies) that are signed or sealed by LSA. Files in electronic media format or text, data, graphic, or other types that are furnished by LSA to client are only for convenience of client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, LSA makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those of LSA at the beginning of the assignment.

FORCE MAJEURE

Neither party shall be deemed in default of this Agreement to the extent that any delay in performance of its obligation results from any cause beyond its reasonable control and without its negligence.

LITIGATION

In the event that either party brings action under the proposal for the breach or enforcement thereof, the prevailing party in such action shall be entitled to its reasonable attorneys' fees and costs whether or not such action is prosecuted to judgment.

NOTICES

Any notice or demand desired or required to be given hereunder shall be in writing, and shall be deemed given when personally delivered or deposited in the mail, postage prepaid, sent certified or registered, and addressed to the parties as set forth in the proposal or to such other address as either party shall have previously designated by such notice. Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

TERMINATION OF CONTRACT

Client may terminate this agreement with seven days prior notice to LSA for convenience or cause. Consultant may terminate this Agreement for convenience or cause with seven days prior written notice to client. Failure of client to make payments when due shall be cause for suspension of services, or ultimately termination of the contract, unless and until LSA has been paid in full all amounts due for services, expenses, and other related charges.

REVOCACTION

If this Schedule of Standard Contract Provisions is attached to a proposal, said proposal shall be considered revoked if acceptance is not received within 90 days of the date thereof, unless otherwise specified in the proposal.

HOURLY BILLING RATES EFFECTIVE AUGUST 2008

Job Classification							Hourly Rate Range*
Planning	Environmental	Transportation	Air/Noise	Cultural Resources	Biology	GIS	
Principal	Principal	Principal	Principal	Principal	Principal	Principal	\$140-275
Associate	Associate	Associate	Associate	Associate	Associate	Associate	\$100-190
Senior Planner	Senior Environmental Planner	Senior Transportation Planner/Engineer	Senior Air Quality/Noise Specialist	Senior Cultural Resources Manager	Senior Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Senior GIS Specialist	\$85-170
Planner	Environmental Planner	Transportation Planner/Engineer	Air Quality/Noise Specialist	Cultural Resources Manager	Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	GIS Specialist	\$70-100
Assistant Planner	Assistant Environmental Planner	Assistant Transportation Planner/Engineer	Air Quality/Noise Analyst	Cultural Resources Analyst	Assistant Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Assistant GIS Specialist	\$50-100
Field Services							
Senior Field Crew/Field Crew							\$50-85
Office Services							
Research Assistant/Technician							\$30-40
Graphics							\$80-105
Office Assistant							\$55-80
Word Processing/Technical Editing							\$70-95

* The hourly rate for work involving actual expenses in court, giving depositions or similar expert testimony, will be billed at \$250 per hour regardless of job classifications.

LSA IN-HOUSE DIRECT EXPENSES

	Unit Cost
Reproduction	\$0.10 per page
Color Reproduction (8.5 x 11)	\$1.00 per page
Color Reproduction (11 x 17)	\$2.50 per page
CD Production	\$5.00 per CD
Plotting	\$5.00 per linear ft.
Mileage Road	\$0.585 per mile
Mileage Off-Road	\$0.735 per mile
GPS Unit	\$100.00 per day
Sound Meter	\$75.00 per day
Aerial Photos	\$200.00 per photo

**COLORADO LAGOON
REGULATORY PERMITTING ASSISTANCE BUDGET BREAKDOWN**

Task	Estimated Hours	Budget
Task 1 - Preapplication Meetings	30 (LSA)	\$ 5,070
	25 (Moffatt & Nichol)	<u>\$ 3,812</u>
		\$ 8,882
Task 2 - Conceptual and Final Compensatory Mitigation Plan	136 (LSA)	\$15,040
Task 3 - Section 404 Preconstruction Notification	106 (LSA)	\$10,980
	46 (Moffatt & Nichol)	<u>\$ 7,056</u>
		\$18,036
Task 4 - Section 401 Water Quality Certification Application	114 (LSA)	\$11,580
	18 (Moffatt & Nichol)	<u>\$ 2,780</u>
		\$14,360
Task 5 - RWQCB NPDES Wastewater Discharge/Dewatering Permit Application	106 (Moffatt & Nichol)	\$16,056
Task 6 - County of Los Angeles Sanitary Sewer Diversion Permit Application	92 (Moffatt & Nichol)	\$13,906
Task 7 - Coastal Development Permit Application (Owner's Option)	160 (LSA)	\$8,472
	6 (Lucast Consulting)	\$ 2,400
	27 (Moffatt & Nichol)	\$ 4,128
	Notification Fee	<u>\$ 5,000</u>
		\$20,000
Task 8 - Section 1602 Notification of Streambed Alteration	130 (LSA)	\$13,522
Task 9 - County of Los Angeles Flood Control District - Flood Permit	244 (Moffatt & Nichol)	\$46,592
Task 10 - Attend Meetings, Track Approvals, and Project Management	114 (LSA)	\$17,160
	43 (Moffatt & Nichol)	<u>\$ 6,450</u>
		\$23,610
Reimbursable Expenses		\$5,000
	TOTAL	\$195,004

EXHIBIT “B”

City’s Representatives:

Victor Grgas – Property Services Bureau
Manager

(562) 570-6705

Dennis Eschen – Planning & Development
Bureau Manager

(562) 570-3130

EXHIBIT “C”

Materials/Information Furnished: None

CITY OF LONG BEACH POLICY FOR DISADVANTAGED, MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES

It is the policy of the City of Long Beach to utilize Disadvantaged, Minority-Owned and Women-Owned Business Enterprises in all aspects of contracting, including construction, the purchase of materials and services, including professional services, leases and the granting of concessions.

EXHIBIT "D"