

1 FOURTH AMENDMENT TO AGREEMENT NO. 30773

2 **30773**

3 THIS FOURTH AMENDMENT TO AGREEMENT NO. 30773 (this
4 "Amendment") is made and entered, in duplicate, as of September 7, 2010, for reference
5 purposes only, pursuant to a minute order adopted by the City Council of the City of Long
6 Beach at its meeting on September 7, 2010, by and between MOFFATT & NICHOL, a
7 California corporation ("Consultant") and the CITY OF LONG BEACH, a municipal
8 corporation ("City").

9 WHEREAS, the parties entered into Agreement No. 30773 (as amended,
10 the "Contract"), an amendment thereto dated June 10, 2008, a second amendment
11 thereto dated November 17, 2009, and a third amendment thereto dated March 1, 2010,
12 whereby Consultant agreed to perform engineering and design work for the restoration of
13 the Colorado Lagoon in the City of Long Beach ("Project"); and

14 WHEREAS, the parties desire to amend the scope of work and fee
15 breakdown in order to complete certain additional work not contemplated by the initial
16 Contract.

17 NOW, THEREFORE, in consideration of the mutual terms and conditions in
18 the Contract, the parties agree as follows:

- 19 1. The "Part 2.1 New Scope of Work" schedule attached to this
20 Amendment as Exhibit "C" supplements the "Part 2 Scope-of-Work" which is currently
21 part of Exhibit "C" to the Agreement.
- 22 2. The "Part 2 Fee" schedule attached to this Amendment as Exhibit
23 "C" supplements the "Part 2 Fee" schedule which is currently part of Exhibit "C" to the
24 Agreement.
- 25 3. Section 2 of the Contract is hereby amended so that the term of the
26 Contract is extended for a period of two (2) additional years. The Contract shall
27 terminate at 11:59 p.m. on June 9, 2012.

OFFICE OF THE CITY ATTORNEY
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4. Except as expressly amended herein, all of the terms and conditions of the Contract are ratified and confirmed and shall remain in full force and effect.

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

"Consultant"

MOFFATT & NICHOL, a California corporation


By: 
Name: MICHAEL J. MCCARTHY
Title: VICE PRESIDENT

By: 
Name: TIMOTHY J. RELLOR
Title: SR VP

"City"

CITY OF LONG BEACH

Assistant City Manager

By: 
Name: PATRICK H. WEST
Title: CITY MANAGER
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This Fourth Amendment to Agreement No. 30773 is approved as to form on

October 12, 2010.

ROBERT E. SHANNON, City Attorney

By: 
Deputy

EXHIBIT C

ATTACHMENT A PART 2.1 NEW SCOPE-OF-WORK

In general, the new work for the Part 2.1 plans is associated with:

- a. Addition of North Arm and expanded Central Area dredging footprint;
- b. Creation of a construction plan “additive” for dredging to remove only hazardous material in the Central Area and North Arm;
- c. Creation of a construction plan “additive” for dredging to remove additional material to meet “below ERL” goals in the Central Area and North Arm.
- d. Creation of new additives for trucking of material to Port of Long Beach (Base Bid) and trucking of material to Marine Stadium (Alternate A).
- e. Preparation of bid package language for contractor pre-qualification requirement to demonstrate treatment of hazardous sediment.
- f. Deletion of Additives (5 and 6) for electrical power sources at Colorado Lagoon and Marine Stadium.
- g. Deletion of Alternates B and C dredge methods.
- h. Sediment treatment testing in support of construction contractors’ pre-qualification requirement.
- i. Sediment effluent elutriate testing to provide data to construction contractor for dredge material dewatering discharge.

Side slope recontouring of the north arm and central area north shore is not included in these Part 2.1 plans; this work would be done as part of the future Part 2.2 plan set.

The work associated with items a-c are included in the “Expanded Dredge Footprint” fee. The work associated with items d-g are included in the “Response to City Comments” fee. The work associated with items h-i are included in the new Task 8 fee.

The impacted Part 2 scope of work items are:

Task 1 – Project Management

Task 6 – Final Design Development and Bid Package Preparation

6.D. *Prepare Pre-Final engineering plans, specifications and opinion-of-probable construction costs.* The Pre-Final set will be prepared in response to City and Corps comments to the 100% submittal.

6.E. *Prepare Final engineering plans, specifications and opinion-of-probable construction costs.* The Final set will be prepared in response to City and Corps comments to the Pre-Final submittal.

Task 7 – Construction Support

Task 8 (new task) – Additional Sediment Testing in Support of Contractor Bids

8.A. *Sediment Treatment Contractor Pre-Qualification Support.* Obtain and distribute lagoon sediment samples to contractors/bidders. Perform baseline (pre-treatment) test of samples. Perform post-treatment tests on contractor-provided samples. Cost herein assumes 20 contractor-provided samples to be tested. If the actual number of samples is more or less than 20, then the fee will be adjusted up or down, accordingly, at a rate of \$260 per sample.

8.B. *Sediment Effluent Testing.* Perform effluent elutriate chemical and bioassay tests on (pre-treatment) sediment sample. Sample assumed to be obtained at same time as for sample for task 8.A.

The specific impacts (additional work) associated with these tasks is described further in Attachment C.

ATTACHMENT B
FEE ENHANCEMENT SUMMARY

	LABOR COSTS				OTHER DIRECT COSTS		NEW TASK TOTALS	PREVIOUS TASK TOTALS	ENHANCEMENT
	M&N	Capouya	DYA	KLI	M&N	Subs*			
TASK 1 - PROJECT MANAGEMENT	\$32,976						\$32,976	\$23,396	\$9,580
TASK 2 - DATA COLLECTION AND MODELING	\$33,848		\$12,500		\$50	\$38,200	\$84,598	\$84,598	\$0
TASK 3 - PRELIMINARY DESIGN DEVELOPMENT - 35%	\$90,895	\$43,610			\$85	\$910	\$135,500	\$135,500	\$0
TASK 4 - INTERMEDIATE DESIGN DEVELOPMENT - 75%	\$41,560	\$49,360			\$600	\$400	\$91,920	\$91,920	\$0
TASK 5 - CEMENT STABILIZATION EVALUATION	\$23,727			\$37,688	\$80	\$12,798	\$74,293	\$74,293	\$0
TASK 6 - FINAL DESIGN DEVELOPMENT AND BID PACKAGE PREPARATION	\$278,895	\$18,690			\$1,400	\$320	\$299,305	\$172,437	\$126,868
TASK 7- CONSTRUCTION SUPPORT	\$81,877	\$12,935			\$600	\$300	\$95,712	\$55,445	\$40,267
TASK 8 - ADDITIONAL SEDIMENT TESTING IN SUPPORT OF CONTRACTOR BIDS	\$7,334			\$15,950	\$0	\$21,322	\$44,606	\$0	\$44,606
TOTALS	\$591,112	\$124,595	\$12,500	\$53,638	\$2,815	\$74,250			
TOTAL FOR PART 2							\$858,910	\$637,588	\$221,322
<i>The costs shown above for Tasks 1-3 include work completed to date for Part 2.1 and Part 2.2. The costs shown above for Tasks 4-7 are only for Part 2.1.</i>									
<i>* Includes Dulin & Boynton Topo Survey, DYA Geotech Survey Equipment, LCI Soil Fertility Testing, and KLI Sediment Testing Lab Costs</i>									

	Existing M&N Labor Budget	New/Revised M&N Labor Estimate	Kinnetic Labor and Lab Costs	Fee Enhancement
Part 2.1 - Expanded Dredge Footprint				
Task 1 - Project Management	\$23,396	\$32,976		\$9,580
Task 6 - Final Design Development and Bid Package Preparation	\$152,027	\$271,647		\$119,620
Task 7 - Construction Support *	\$41,610			
7.a Construction Support to Baseline Project (West Arm Dredging)		\$41,610		\$0
7.b Construction Support to Additive X Project (Central Area and North Arm Hazardous Dredging)		\$20,469		\$20,469
7.c Construction Support to Additive Y Project (Central Area and North Arm ERL Dredging)		\$19,798		\$19,798
Subtotal- Task 7 *		\$81,877		\$40,267
Subtotal- Part 2.1 Expanded Dredge Footprint				\$169,467
Part 2.1 / Task 6.D - Response to City Comments / Pre-Final Submittal (Estimate Based on Actual City Comments Received)	\$32,238	\$39,486		\$7,248
Part 2.1 / Task 8 - Sediment Testing in Support of Contractor Bids (new task) **	\$0	\$7,335	\$37,272	\$44,607
Total - All Additional Work				\$221,322
<i>* The Task 7 costs assume that the dredge area additives would be implemented during the same time period and construction contract as for the baseline bid work. These costs are not valid if the central area and north arm dredging is done at a later time under a separate construction contractor.</i>				
<i>** The Task 8 cost herein assumes 20 contractor-provided samples to be tested. If the actual number of samples is more or less than 20, then the fee will be adjusted up or down, accordingly, at a rate of \$260 per sample.</i>				

A detailed explanation of each of these costs is provided in Attachment C.

ATTACHMENT C
EXPLANATION OF FEE ENHANCEMENTS

Part 2.1 - Expanded Dredge Footprint and New Additives Scheme

Task 1 – additional tasks associated with contract amendment. The additional work includes coordination with City and M&N-internal management paperwork, staff coordination, etc.

Task 6 – new plans and spec work associated with expanded dredge footprint. The major work items are:

- Developing two sets of cut depths for the north arm and central area based on sediment test results – one set for hazardous material removal and one for ERL material removal.
- Revising drawing plan views to include expanded central area footprint;
- Creating new sheets for addition of north arm and expanded central area dredging;
- Re-calculating dredge volumes for the new additives;
- Creating new sheets for the cross sections for the expanded dredge footprint and to delineate hazardous material removal versus “ERL” material removal;
- Revising the spec, construction cost estimate, and bid items list to include the new additives.

Task 7 – additional construction support associated with expanded dredge footprint construction.

The revised fee estimate is based on a longer construction duration for the increased dredge footprint and increased complexity associated with the additives scheme. The revised fee estimate assumes that the construction support level of effort would increase by ~70% over the existing construction support fee. (Attachment B shows a breakdown of the M&N construction support fee for each of the construction parts (Baseline Bid, and the two new dredge additives). As noted, the M&N fees assume that the dredge area additives would be implemented during the same time period and construction contract as for the baseline bid work. These costs are not valid if the central area and north arm dredging is done at a later time under a separate construction contractor.). Additionally, previous budget for construction support associated with the power source additives (now deleted) has been credited.

Part 2.1 – Response to City Comments / Pre-Final Submittal

Task 6 – revision of Part 2.1 plans to address City comments on 100% submittal. The previous (March 2010) proposal included an assumed level-of-effort budget for making revisions to the 100% plans. That budget is adequate to address the majority of the City comments received, with a few notable exceptions which are of relatively significant effort:

- Replacing the drawing title blocks and updating/replacing Corps of Engineers drafting standards with City of Long Beach standards. This includes changing the drawing scale and size of all sheets to be consistent with City standards.
- Coordination and drawing changes to reflect Termino Avenue Drain Project construction plans for the affected Colorado Lagoon storm drains. This includes creating new abandoned pipe and cap details.

The electrical power source additives and two alternates have been deleted and thus drawing updates associated with these are now not required. However, these deletions do result in new work to revise drawing sheets (e.g. renumber detail callouts, renumber sheets), spec and bid items list where these additives and alternates are referenced. Also, the previous proposal had budget for only one power source additive to be carried into the 100%, pre-final and final submittals (although two power source additives were actually carried into the 100%). Thus, any credit associated with these deletions is minimal.

Part 2.1 – Task 8 – Additional Sediment Testing in Support of Contractor Bids

The City has requested that the potential construction contractors demonstrate a successful treatment of hazardous Colorado Lagoon sediment as a pre-qualification requirement to their bids. In order to facilitate this, M&N and Kinnetic will conduct a program to obtain sediment samples and distribute these samples to potential contractors/bidders, who will then treat the samples with their proposed treatment method and return them to a designated lab for independent testing/confirmation of their treatment method.

Additionally, the City has requested the inclusion of sediment effluent water quality data in the construction bid package, in the event that the construction contractor will propose to discharge dredge material decant/waste water back into the lagoon (as part of dewatering operations). This data would be provided so that the contractors can account for any potential water quality issues in their bids. Accordingly, elutriate testing of Colorado Lagoon sediment effluent will be performed.

ATTACHMENT D
ASSUMPTIONS AND EXCEPTIONS ASSOCIATED WITH FEE

ASSUMPTIONS

- a. This proposal includes two submittal reviews by the City of Long Beach departments involved in the project. The review period is assumed to be four weeks for each review period. Work for each submittal will not progress until receipt of all from reviewers is received. Additional submittals required by agencies will require additional authorization.
- b. This proposal assumes timely submittal of information provided by other consultants or the City during engineering design. Submittals that require revisions to grading or dredging design after initiation of work will require additional authorization.
- c. Striping and resurfacing of parking lots are proposed to be addressed with notes on the plans and project specifications, and no additional sheets or design will need to be generated for this work. Additional clarification is required from the City Design Department. The current assumption is that upon demobilization, contractor will resurface and stripe only. Should the City require complete pavement replacement, additional effort will be required.
- d. Boring logs requested to be added by the City will be included in the Project Specifications only. It is assumed that no additional drawing sheets will be required. Should the City require borings to be added to the drawing set, additional effort will be required.
- e. Noise and dust measures will be identified on the plans via notes and it is assumed that no additional design is required on the plans (e.g. design of sound wall not required). Generation of noise or dust measures plans will require additional authorization.
- f. City shall provide all additional monument and boundary documentation surrounding the property.
- g. Specifications will be per Standard Plan and Specifications for Public Works Construction, 2006 Edition.

EXCEPTIONS (WORK NOT INCLUDED IN FEE)

- h. This contract includes customary processing of all plans and documents which consultant prepares. Additional processing due to changes in design criteria, agency standards or regulations, or for any cause not under direct control or directly resulting from consultant's action, will be provided for additional authorization.
- i. Design of vehicular or pedestrian routes or utility relocations.
- j. Preparation of Storm Water Pollution Prevention Plans (SWPPP).
- k. Preparation or processing of Notice of Intent (NOI) / NPDES permits.
- l. Preparation of hydrology or hydraulics report.

- m. Preparation of traffic studies.
- n. Preparation of geotechnical investigations.
- o. Preparation of soil remediation procedures or report.
- p. Preparation of new topographic maps.
- q. Preparation of Storm Water Management Plans (SWMP).
- r. Preparation of Standard Urban Stormwater Mitigation Plans (SUSMP).
- s. Preparation of Operations and Management Manual (O&M).
- t. Coordination with Southern California Edison or other utility owners.
- u. Removal of sacrificial anodes.
- v. Hazardous chain of custody, reports or documentation.
- w. Trenching and shoring plans.
- x. Traffic control plans.